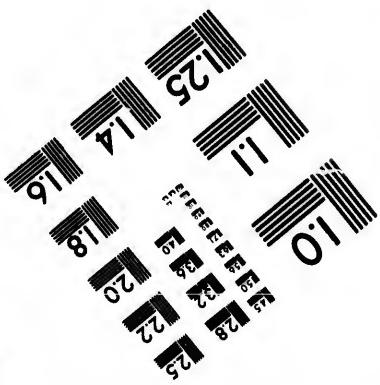
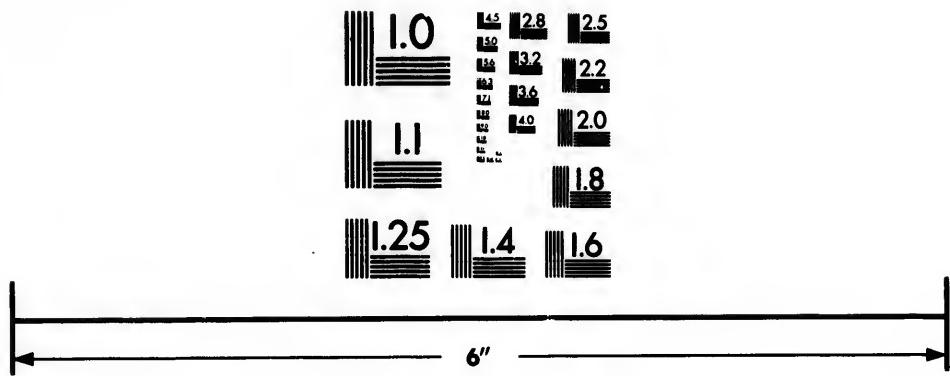


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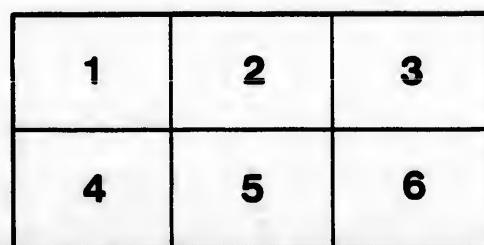
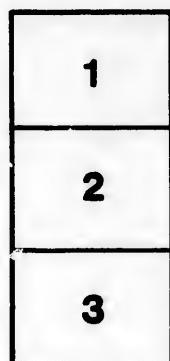
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NEW-BRUNSWICK MANUAL;

A COMPILATION OF

FORMS AND INFORMATION,

DESIGNED FOR THE USE OF

JUSTICES OF THE PEACE,

MERCHANTS, MECHANICS, &c.

"Every individual should bear in mind, that he is sent into this world to act a part in it, and though one may have a more splendid, and another a more obscure part assigned him, yet the author of each is equally accountable."

SAINT JOHN, N. B. PUBLISHED BY D. M' MILLAN.

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TO THEIR WORSHIPS
THE JUSTICES OF THE PEACE,
AND THE
MERCHANTS & MECHANICS
OF THE
Province of New-Brunswick,

AS THIS WORK WAS MORE ESPECIALLY DESIGNED FOR THEIR USE,
IT IS THEREFORE TO THEM MOST RESPECTFULLY
DEDICATED BY
THE AUTHOR.

PREFAOE.

This compilation has been undertaken at the suggestion of many intelligent persons residing in different parts of the Province. The forms of conveyancing are of the most simple description, embracing those of every day occurrence, and applicable only to ordinary cases. Those of a complicated nature generally require the hand of a person accustomed to drafting, and it will be more prudent when such occasions present themselves, to consult some competent professional adviser, otherwise error and perplexing legal difficulties may ensue.

To several individuals the author is indebted for valuable information and suggestions, and to each of them he gladly avails himself of this opportunity to tender his best acknowledgments.

The Honorable JOHN SIMCOE SAUNDERS, Surveyor General, and Commissioner of Crown Lands of New-Brunswick; and HENRY BOWYER SMITH, Esquire, Collector of Her Majesty's Customs at the Port of Saint John, are entitled to the author's special thanks; the former gentleman furnished the information under the head of "Crown Land Department," and the latter that portion of the work connected with the Custom House. The liberal and polite manner in which each favor was conferred, will not soon be forgotten.

This Work has little claim to originality: the labors of the compiler having mainly consisted in collecting, condensing, and arranging the varied materials of which it is composed.

The result of his exertions the author now offers to the Public, with an assurance that no diligence has been spared to render his humble production as useful as possible. He has only to add, that if the information and advantage to be derived from the use of it, be in proportion to the time and anxiety bestowed on its compilation, his most sanguine expectation will be more than realized.

P. STUBS.

SAIN'T JOHN, September, 1841.

INDEX.

FORMS IN CRIMINAL CASES USED BY JUSTICES OF THE PEACE.

	Page
LAW SUMMARY,	3
Commitment—general form of	8
accessory before the fact,	9
Accessory with principal,	9
Affray,	9
Assault,	9
Assault on Constable,	10
Burglary,	10
Burning House,	10
Challenge to fight,	11
Concealing birth,	11
Disorderly house,	12
Embezzlement,	12
Embezzlement Queen's Stores,	15
Forging bill of exchange,	12
Forging bond,	13
Forging Will,	13
Larceny,	13
Manslaughter,	13
Murder,	14
Perjury,	14
Poisoning,	14
Receiver of stolen goods,	15
Rescue,	15
Riot,	16
Robbery,	16
Stabbing,	16
Seducing soldiers, &c.	17
Conviction—when defendant appears, pleads not guilty,	17
where defendant appears and confesses,	18
where defendant does not appear,	19
Information	5
for search warrant,	5
Recoguizance to appear,	8
Summons,	5
for a witness,	7
Warrant,	6
search,	7

FORMS OF AGREEMENTS, ASSIGNMENTS, BONDS,
BILLS OF SALE, DEEDS OF LAND, &c.

	Page
LAW SUMMARY,	20
Agreement—to build a house,	27
according to plan annexed,	29
Building a ship,	30, 46
for freight of a ship,	31
for letting a house,	32
Articles of Co-partnership,	39
Assignment of a debt as security,	33
for benefit of creditors,	34
of Lease,	36
of Bond,	33
mutual between two partners,	37
Bill of Sale—goods and chattels,	38
Bond—of Arbitration,	32
for Deed of Land,	47
assignment of	33
Deed—of quit claim,	40
of warranty,	48
Indenture—of Apprenticeship,	41
where father is concerned,	42
Letter of Attorney—to receive a Legacy,	42
to receive debts,	43
to two persons,	43
to sell Lands,	44
to sell a Ship,	44, 45
Mortgage—of Goods,	46, 49

LEASES.

LAW SUMMARY,	51
Lease—usual form of,	53
of goods and household furniture,	53
short, by way of memorandum,	54
of house and lands,	55
building,	57

IMMIGRATION.

Information for Immigrants—see pages	62—75
--------------------------------------	-------

CROWN LAND DEPARTMENT.

Petition for immediate settlement,	77
not for immediate settlement,	78
Timber,	80
Rates of duty,	81

CUSTOM HOUSE.

FORMS,	84—95
---------------	--------------

- Number 1, Entry for free goods,**
 - 2, for goods paying advalorem duty,
 - 3, Warehouse Inwards,
 Goods subject to tale duties,
 - 4, Warehouse Inwards,
 Goods subject to advalorem duties,
 - 5, for the use of British Fisheries,
 - 6, Exportation ex Warehouse,
 - 7, Home consumption subject to tale duties,
 - 8, Home consumption subject to advalorem duties,
 - 9, Warehouse Inwards,
 Ships' Provisions,
 - 10, Ex Warehouse,
 Ships' Provisions,
 - 11, For the use of British Fisheries,
 - 12, Transfer of Goods in Warehouse.
-

MARITIME.

LAW SUMMARY,	96
Apprentices' Indentures,	104—106
discharge of	106
Bill of sale of Ship,	101
Bond, Respondentia,	102—103
Bottomry,	103

AMERICAN CONSULATE.

Affidavit—form of	111
Certificate—Consular,	112
Consular Agent,	112
Importation of Goods without Invoice,	108
belonging to absent persons,	108
to non-resident citizens,	109
to estates of deceased persons,	110
Invoices not verified,	110
Merchandise owned jointly,	110
when particulars are unknown,	111

LUMBER CONTRACTS.

Forms of,	Page
	113—116

MORTGAGE OF LAND.

LAW SUMMARY,	117
Mortgage—form of	119

WILLS.

LAW SUMMARY,	121
Will—short form of	124

LANDLORD AND TENANT.

LAW SUMMARY,	125
Appraisers' Oath,	130
Notice to quit,	128
where commencement of tenancy uncertain,	128
by an Agent,	129
Lodgings,	128
or pay double value,	128
by the Tenant,	129
Notice to Tenant to pay rent,	129
of distress to Tenant,	129
Warrant of distress,	129

ERRATA.

P. 48, 14th line from top of page, for "one" read "out."
 P. 76, 4th " " for "Commissioners" read "Commissioner."

NOTE.—Custom House form No. 2.—It is usual to add 10 per cent. on the gross amount of invoice, prior to calculating advalorem duties. In the form given, this was inadvertently omitted.

Forms in Criminal Cases, used by Justices of the Peace.

LAW SUMMARY.

The authority of Justices of Peace, appointed by commission from the Crown, is limited to the respective counties therein specified; and that of Magistrates, in separate jurisdictions, is confined to their respective districts: it is in no case attached to the person, so as to be capable of being exerted elsewhere than within those limits. It is laid down by Dalton, chap. 6, that a Justice of Peace, for the time that he shall make his abode or be out of the county where he is in commission, cannot intermeddle to take any recognizance, or any examination or otherwise, or yet to exercise his authority in any matter that shall happen within the county where he is in commission; neither can he cause one to be brought before him, out of the county where he is in commission; "for, being out of the county where he is in commission, he is but a private man." A distinction, however, is remarked by Mr. Sergeant Hawkins, (2 Hawk. P. C. c. 8, s. 29.) between coercive and ministerial acts; the former of which cannot be performed by Magistrates out of their own county, but the latter, it is said, may. And it is affirmed by the same authority, that recognizances and informations, voluntarily taken by Magistrates out of the county, &c., are good.

The jurisdiction of Justices of the Peace is limited to offences committed within the county, and though an act expressly directs the offence to be enquired of by Justices residing near the place where it is committed, that does not give jurisdiction to any other than Justices of the county within which the offence was committed. (Taylor v. Hubble, 2 Strange 1154. Rex v. Chandler, 14 East. 267.) See the Provincial Act 34, Geo. 3, cap. 2—entitled "An Act for apprehending persons in any county or place, upon warrants granted by Justices of the Peace of any other county."

Wherever the concurrence of two Justices is requisite for any judicial act, they must be together at the time of executing it. (Billings v. Prinn, 2 Bl. Rep. 1017.)

It should be observed, that wherever authority is given to one Justice, it may be executed by any greater number. (Hatton's case, 2 Salk. 477. Dalt. c. 6, s. 8.)

Wherever the complaint is required by statute to be in writing, that form must be observed; but, unless expressly so directed, it does not seem necessary that it should be so. Nor is it

requisite that the information be upon oath, if not enjoined by the letter of the statute. (*Rex v. Willis, Bosc. 16.*) This is most usually directed where power is given to apprehend the offender in the first instance, though not confined to cases of that description.

For offences merely arising by penal statutes, and not connected with any breach of the peace, a Justice has no authority, as necessarily incident to the cognizance of the offence, to apprehend the accused in the first instance, or even after a summons and default, but can only summon him to attend, and in default of his appearance proceed *ex parte*. However, in a variety of cases where there may be reason to apprehend, from the nature of the offence, or the probable description of the offender, that the object of the prosecution would be defeated by giving him notice, the Legislature has thought proper to arm the Magistrate with authority to issue a warrant immediately upon the information. (*Paley on Crim. 19, 20.*) In the majority of such instances, though not in all, the information is required to be upon oath. (*Ib. 20.*)

It is the duty of the officer to bring the party accused, within a reasonable time after the arrest, before the proper magistrate, in order that he may be examined, and, after due investigation, discharged, bailed, or committed. It then becomes the duty of the Magistrate to take and complete the examination of all concerned, and to discharge or commit the individual suspected, as soon as the nature of the case will permit, but he is allowed a reasonable time for this purpose, before he makes his final decision. A commitment for further examination must not be made use of as a commitment for trial, and the examination must take place in a reasonable time, otherwise an action will lie against the Magistrate. (*1 Chitty's Crim. Law, 72.*)

An attorney, or even counsel, for the party accused has no right to be present at the time of the examination of the latter. (*Ibid. 74.*)

A search warrant is not to be granted without *oath*, made before the Justice, that the party complaining has probable cause to suspect his property has been stolen, or is concealed in such a place, and showing his reasons for such suspicion. The oath need not positively and directly aver that the property has been stolen. The warrant should direct the search to be made in the day time, though it is said, that where there is more than probable suspicion, the process may be executed in the night. It ought to be directed to a constable, or other public officer, and not to a private person, though it is fit that the party complaining should be present and assisting, because he will be able to identify the property he has lost. It should also command, that the goods found, together with the party in whose custody they are taken,

be brought before some Justice of the Peace, to the end that, upon further examination of the fact, the goods and the prisoner may be disposed of as the law directs. (Ibid. 65.)

USUAL FORM OF INFORMATION FOR A CRIMINAL OFFENCE.

(— to wit.) The information and complaint of A. B., of _____, in the county of _____, yeoman, taken and made on the oath of the said A. B., before me, E. F., Esquire, one of Her Majesty's Justices of the Peace, in and for the said County, on the — day of —, in the year of our Lord One thousand eight hundred and —, who, on his oath, saith, that (here state the subject matter of the offence.) And thereupon, he, the said A. B., prayeth that justice may be done in the premises.

A. B.

Exhibited before me,
E. F.

FORM OF INFORMATION FOR SEARCH WARRANT.

(— to wit.) The information and complaint of A. B., of _____, in the County of _____, labourer, made on oath before me, E. F., one of Her Majesty's Justices of the Peace for the said county, the — day of —, who saith, that the following goods, to wit, (describe the goods stolen,) have by some person or persons unknown, within — days last past, been feloniously taken, stolen, and carried away, out of his dwelling-house, (or out-house as the case may be,) situate at —, aforesaid, in the county aforesaid, and that he hath probable cause to suspect, and doth suspect, that the said goods, or part thereof, are concealed in the house (or, as the fact is,) of C. D., at —, in the said county.

A. B.

Taken before me,
E. F.

FORM OF SUMMONS.

(— to wit.) To A. B., of —, in the said county, labourer.

Whereas you have this day been charged before me, J. P., one of Her Majesty's Justices of the Peace for the county aforesaid, on the oath of (one) credible witness, for that you, on the _____ day of _____, in the year of our Lord, one thousand eight hundred and _____, at _____, in the county aforesaid, did (&c. here state the nature of the offence.) These are therefore to require you to appear before me, at _____, in the said county, on (Wednesday) next, the (third day of July instant), at the hour of eleven, in the forenoon of the same day, to answer to the said charge, and to be further dealt with according to law. Herein fail you not. Given under my hand and seal, the _____ day of _____, in the year of our Lord _____.

J. P. [L. S.]

Where the summons is directed to the constable, or a third person, a copy of it, plainly and legibly written on paper, should be served personally upon the party accused; if directed to the party himself, the original should be personally served upon him, and a copy of it kept by the party serving it. It should be personally served upon the party accused, (unless where personal service is expressly dispensed with by law,) otherwise, if the party do not attend at the time appointed, it would be imprudent for the Justice to proceed to hear the case in his absence.

WARRANT.

_____ to wit. To any constable of the parish of _____, in the said county of _____.

Forasmuch as A. B., of _____, in the county aforesaid, labourer, hath this day been charged before me, J. P., one of Her Majesty's Justices of the Peace for the county aforesaid, on the oath of a credible witness, for that he the said A. B., on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, at _____, in the county aforesaid, did (&c. here state the nature of the offence.) These are therefore to command you, in Her Majesty's name, forthwith to apprehend and bring before me, or some other of Her Majesty's Justices of the Peace, in and for the said county, the body of the said A. B., to answer unto the said charge, and to be further dealt with according to law. Herein fail you not. Given under my hand and seal, the _____ day of _____, in the year of our Lord _____.

J. P. [L. S.]

FORM OF COMMISSION SEARCH WARRANT.

To any Constable of the parish of —, in the county of —.
— to wit. Whereas it appears to me, E. F. Esquire, one
of the Justices of our Lady the Queen, assigned to keep the
peace within the said county, by the information on oath of A. B.
of —, in the said county, yeoman ; that the following goods,
to wit, (describe the stolen articles accurately,) have within —
days last past, by some person or persons unknown, been feloniously
stolen, taken, and carried away out of the house (or barn,
&c., according to the fact,) of the said A. B., at —, aforesaid,
in the county aforesaid ; and that the said A. B. hath probable
cause to suspect, and doth suspect, that the said goods and chattels
are concealed in the dwelling-house of C. D., of —, in the
said county. labourer. These are, therefore, in the name of our
said Lady the Queen, to authorize and require you, with necessary
and proper assistants, to enter, in the day-time, into the said
dwelling-house of the said C. D., at —, aforesaid, in the
county aforesaid, and there diligently search for the said goods ;
and if the same, or any part thereof, shall be found upon such
search, that you bring the goods so found, and also the body of
the said C. D., before me, or some other of the Justices of our
said Lady the Queen, assigned to keep the peace in the county
aforesaid, to be disposed of and dealt with according to law.
Given under my hand and seal, at —, in the said county, the
— day of —, in the year of our Lord, One thousand
eight hundred and —.

SUMMONS FOR A WITNESS.

To any Constable of the parish of —, in the county of —.
— to wit. Whereas information hath been made before
me, E. F. Esquire, one of Her Majesty's Justices of the Peace,
in and for the said county, that (here state the charge or offence
as in the information,) and that G. H., of —, in the said
county, yeoman, is a material and necessary witness to be exa-
mined concerning the same; these are, therefore, to require you
to summon the said G. H. to appear before me, at —, in the
said county, on the — day of — instant, at the hour of —
o'clock in the forenoon of the same day, to testify the truth ac-
cording to the best of his knowledge concerning the premises.
And be you then there to certify what you shall have done in the
execution hereof. Herein fail you not. Given under my hand
and seal, the — day of —, in the year of our Lord One
Thousand eight hundred and —. E. F. [L. S.]

RECOGNIZANCE TO APPEAR.

— to wit. A. B., of —, in the said county, acknowledges himself to be indebted to our Sovereign Lady the Queen, in the sum of — pounds. C. D., of —, in the said county, acknowledges &c., — pounds. E. F., of —, in the said county, acknowledges &c., — pounds. Upon condition that the said A. B. do personally appear (at the next general sessions of the peace, to be held for the said county, at —, or, at the next court of Oyer and Terminer, and general gaol delivery, to be held at —, for the said county) then and there to answer the complaint of G. H., for assaulting and beating him, &c., (or as the offence may be,) against the peace, &c.; and do not depart the court without leave; then this recognizance to be void, or else to remain in full force. Taken and acknowledged, the — day of —, One thousand eight hundred and —.

L. M.,
One of Her Majesty's Justices of the
Peace for the county of —.

FORMS OF COMMITMENTS.

GENERAL FORM.

— to wit. J. R., Esquire, one of Her Majesty's Justices of the Peace, for the said county, to any constable of —, in the said county, and to the keeper of the common gaol at —, in said county. These are to command you, the said constable, in Her Majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said common gaol, the body of A. B., charged this day before me, the said Justice, on the oath of C. D., of —, farmer, and others, for that he, the said A. B., (on the second day of June, in the year of our Lord one thousand eight hundred and —, at —, in the said county, ten pieces of the current gold coin of the realm called sovereigns, one woollen cloth coat, and one linen shirt, of the monies, goods, and chattels of the said C. D., feloniously did steal, take, and carry away.)* And you, the said keeper, are hereby required to receive the said A. B. into your custody, in the same common gaol, and him there safely to keep, until he shall be thence delivered by due course of law. Herein fail you not. Given under my hand and seal, the — day of —, in the year of our Lord —.

J. R. [L. S.]

* As to the description of an offence in the commitment, see the following forms.

ACCESSORY BEFORE THE FACT, WITHOUT THE PRINCIPAL.

Commencement as ante, p. 8. For that one E. F., (or some person unknown,) on the ____ day of ____, in the year of our Lord, One thousand eight hundred and ____, at ____, in the same county, did feloniously &c., describing the offence; *as in a commitment of the principal*, and that the said A. B., before the said felony was so committed, did feloniously and maliciously incite, move, procure, counsel, and command the said E. F. (or person unknown) to do and commit the said felony. And you, the said keeper &c., *as ante p. 8, to the end.*

ACCESSORY BEFORE THE FACT, WITH THE PRINCIPAL.

After describing the offence of the principal, state that of the accessory thus: "And that the said E. F., before the said (felony) was so committed as aforesaid, did (feloniously and) maliciously incite, move, procure, counsel, and command the said A. B. to do and commit the said (felony). And you the said keeper, &c.," *as ante p. 8, to the end.*

AFFRAY.

Commencement as ante, p. 8. "For that the said A. B. and C. D., on the ____ day of ____, in the year of our Lord, one thousand eight hundred and ____, at ____, in the said county, in a certain public street and highway there, unlawfully, and to the great terror and disturbance of Her Majesty's subjects there being, did make an affray. And you, the said keeper, &c." *as ante p. 8, to the end.*

Misdemeanor at Common Law.

ASSAULT AND BATTERY.

Commencement as ante, p. 8. "On the ____ day of ____, in the year of our Lord, one thousand eight hundred and ____, at ____, in the said county, did assault and beat one C. D. And you, the said keeper, &c.," *as ante, p. 8, to the end.*

Vide *passim*, Prov. Stat. 9th and 10th, 1 Geo. 4, cap. 21.—As to summary jurisdiction of two Justices, in cases of assault.

ASSAULTING CONSTABLES OR REVENUE OFFICERS.

Commencement as ante, p. 8. “On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, in and upon one C. D., (a constable, or, an officer of the provincial revenue, or, an officer of the Customs,) did make an assault, and him, the said C. D., did beat, he, the said C. D., being then in the execution of his duty as such (constable, or, officer of the provincial revenue, or, officer of the Customs,) as aforesaid. And you, the said keeper,” &c. *as ante, p. 8, to the end.*

BURGLARY.

Commencement as ante, p. 8. “On the — day of —, in the year of our Lord, one thousand eight hundred and —, about the hour of eleven in the night, at —, in the county aforesaid, the dwelling-house of the said C. D., there situate, feloniously and burglariously did break and enter, with intent (the goods and chattels of the said C. D. in the said dwelling-house then and there being, then and there feloniously and burglariously to steal, take, and carry away); and then and there in the said dwelling-house, one silver watch, of the goods and chattels of the said C. D., then and there feloniously and burglariously did steal, take, and carry away. And you, the said keeper,” &c. *as ante, p. 8, to the end.*

[1 Wm. 4. c. 15, sec. 8. Prov. Acts.]

BURNING A HOUSE, &c.

Commencement as ante, p. 8. “On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, unlawfully, maliciously, and feloniously did set fire to a certain dwelling-house” (*any house, stable, coach-house, out-house, ware-house, office, shop, mill, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof,*) of C. D., there situate, with intent thereby then and there to injure the said C. D.,” (or “to

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defraud a certain Insurance Company, called _____," or the like); "against the form of the Act of Assembly in that behalf made. And you, the said keeper," &c., *as ante, p. 8, to the end.*
 [See 1 Wm. 4. cap. 16, sec. 2, Prov. Acts. et seq.]

CHALLENGE TO FIGHT.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, wickedly, willingly, and maliciously did write, send, and deliver, to one C. D., a certain letter and paper writing, containing a challenge to fight a duel, with and against him, the said A. B. And you, the said keeper," &c., *as ante, p. 8, to the end.*

COIN, COUNTERFEIT, UTTERING.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, one piece of false and counterfeit money, resembling or apparently intended to resemble and pass for certain of the good, legal, and current money and silver coin of our Lady the Queen of this realm, called a shilling, as and for a piece of such good, legal, and current money and silver coin called a shilling, then and there falsely and deceitfully did utter and tender to one C. D., he, the said A. B., at the time he so uttered and tendered the said piece of false and counterfeit money as aforesaid, well knowing the same to be false and counterfeit: against the form of the, &c. And you, the said keeper," &c., *as ante, p. 8, to the end.*

CONCEALING THE BIRTH OF A CHILD.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, being then and there delivered of a certain (male) child, did, by secretly burying the same," (*by secret burying, or otherwise,*) "unlawfully endeavour to conceal the birth thereof. And you, the said keeper," &c., *as ante, p. 8, to the end.* [See 1 Wm. 4. c. 17. Prov. Acts.]

DISORDERLY HOUSE.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, unlawfully did keep and maintain a certain common, ill-governed, and disorderly house: and did cause certain persons, as well men as women, of evil name and fame, and of dishonest conversation, to frequent and come together in the said house, and there to be and remain drinking, tippling, and otherwise misbehaving themselves. And you, the said keeper," &c., *as ante, p. 8, to the end.*

[See 9 and 10 Geo. 4. cap. 8, Prov. Acts.]

EMBEZZLEMENT BY A CLERK, OR SERVANT.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, being then clerk (or servant) to C. D., did receive, and take into his possession, certain money, to the amount of — pounds and upwards, for and in the name and on the account of the said C. D., his master, and the said money feloniously did embezzle: against the form of the Act of the Assembly, in that case made and provided. And you, the said keeper," &c. *as ante, p. 8, to the end.*

[See 1 Wm. 4. cap. 15, sec. 16, 17. Prov. Acts.]

FORGING A BILL OF EXCHANGE.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord one thousand eight hundred and —, at —, in the said county, feloniously did forge (a certain bill of exchange, for the payment of money, purporting to be drawn by E. F., upon, and accepted by, G. H.; or, "the acceptance of and upon a certain bill of exchange, for the payment of money, purporting to be the acceptance of one E. F.;" or, "the indorsement of and upon a certain bill of exchange, for the payment of money, purporting to be the indorsement of one E. F.) with intention to defraud one C. D.; against the form of the Statute in that case made and provided. And you, the said keeper," &c. *as ante, p. 8, to the end.*

FORGING A BOND.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, feloniously did falsely make, forge, and counterfeit a certain bond for the payment of money, purporting to have been signed and executed by one C. D., with intention to defraud the said C. D.; against the form of the Statute, in that case made and provided. And you, the said keeper," &c. *as ante p. 8, to the end.*

FORGING A WILL.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, feloniously did falsely make, forge, and counterfeit a certain will and testament, purporting to be the last will and testament of one E. F., with intention to defraud one C. D.; against the form of the Statute, in that case made and provided. And you, the said keeper," &c. *as ante p. 8, to the end.*

LARCENY.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, one thousand eight hundred and —, at —, in the said county, ten pieces of the current gold coin of the realm, called sovereigns, one woollen cloth coat, and one linen shirt, of the monies, goods, and chattels of the said C. D., feloniously did steal, take, and carry away. And you, the said keeper," &c., *as ante, p. 8, to the end.*

MANSLAUGHTER.

Same as for Murder, p. 14, except that, instead of the words, "feloniously, wilfully, and of his malice aforethought, did kill and murder," say, "feloniously did kill and slay."

MURDER.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at —, in the said county, feloniously, wilfully, and of his malice aforethought, did kill and murder one C. D., by (stabbing the said C. D. with a knife, in and upon the said left side of the belly, and on other parts of the body of him the said C. D., or, as the cause of death may be), thereby giving him divers mortal wounds; of which said mortal wounds the said C. D. instantly died. And you, the said keeper," &c., as ante, p. 8, to the end.

PERJURY.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at —, in the said county, falsely, wickedly, wilfully, and corruptly, did commit wilful and corrupt perjury, (in an affidavit to hold to bail, then and there made by him the said A. B.,) or, "in the testimony which he gave upon oath, as a witness at the trial of a certain cause between C. D. and E. F., at the Assizes for the county of —, then and there holden;" or, "in the testimony he gave upon oath, in his examination before J. P., Esquire, one of Her Majesty's Justices of the Peace, upon a certain complaint," or, "information then and there preferred by one C. D.) And you, the said keeper," &c. as ante, p. 8, to the end.

POISON, ADMINISTERING, WITH INTENT TO MURDER.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at —, in the county aforesaid, unlawfully, maliciously, and feloniously did cause to be administered to and taken by one C. D., a large quantity of a certain deadly poison, called white arsenic," (or stating the attempt according to the fact,) "with intent then and there and thereby, feloniously, wilfully, and of his malice aforethought, the said C. D. to poison, kill, and murder: against the form of, &c., in that case made and provided. And you, the said keeper," &c. as ante, p. 8, to the end.

QUEEN'S STORES, EMBEZZLING.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at —, in the said county, having the charge and custody of certain armour, munition, shot, and powder, of and belonging to our Lady the Queen, feloniously and unlawfully, for lucre and gain, wittingly, advisedly, and of purpose to hinder and impeach Her said Majesty's service, did embezzle, purloin, and convey away, two hundred pounds weight of gunpowder, so in his charge and custody as aforesaid : against the form of the Statute in that case made and provided. And you, the said keeper," &c. *as ante, p. 8, to the end.*

RECEIVER OF STOLEN GOODS.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, One thousand eight hundred and —, at —, in the said county, one silver tankard, of the goods and chattels of C. D., by a certain ill-disposed person, then lately before feloniously stolen, taken, and carried away, of the same ill-disposed person feloniously did receive, he, the said A. B., well knowing the said goods and chattels to have been feloniously stolen, taken, and carried away: against the form of, &c., in that case made and provided. And you, the said keeper, &c.," *as ante, p. 8, to the end.*

RESCUE.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord, One thousand eight hundred and —, at —, in the said county, whilst C. D., a constable, was conveying one E. F. to the common gaol, at —, under and by virtue of a warrant of commitment of one of Her Majesty's Justices of the Peace, for having feloniously stolen the goods of J. N., did unlawfully assault and beat the said C. D., and did then and there (feloniously,) unlawfully, and forcibly, and against the will of the said C. D., rescue the said E. F. out of the custody of the said C. D. And you, the said keeper &c., *as ante p. 8, to the end.*

RIOT.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at —, in the said county, together with divers other evil-disposed persons, unlawfully, riotously, and routously, did assemble and gather together, to disturb the peace, and did then and there unlawfully, riotously, and routously, (make a great noise, riot, and disturbance;) or, "assault and beat one C. D.; " or as the case may be;) to the great disturbance and terror of the Queen's subjects. And you, the said keeper," &c., as ante, p. 8, to the end.

ROBBERY.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at — aforesaid, in the said county, in and upon (the said) C. D., feloniously did make an assault, and him, the said C. D., in bodily fear and danger of his life feloniously did put, and ten pieces of the current gold coin of the realm, called sovereigns, and one gold watch, of the monies, goods, and chattels of the said C. D., from the person, and against the will, of the said C. D., feloniously and violently did steal, take, and carry away. And you, the said keeper," &c., as ante, p. 8, to the end.

STABBING, WITH INTENT TO MURDER, &c.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at —, in the said county, unlawfully, maliciously, and feloniously did strike, stab, and cut" (stab, cut, or wound) "one C. D., in and upon the right side of the belly, and on other parts of the body of the said C. D., with intent in so doing, to murder, (or do some grievous bodily harm to) the said C. D.; against the form of the Act of the Assembly, in that case made and provided. And you, the said keeper," &c., as ante, p. 8, to the end.

SEAMEN OR SOLDIERS, SEDUCING FROM THEIR ALLEGIANCE.

Commencement as ante, p. 8. "On the — day of —, in the year of our Lord One thousand eight hundred and —, at —, in the said county, feloniously, maliciously, and advisedly, did endeavour to seduce one C. D. (a person serving in Her Majesty's forces by land,) from his duty and allegiance to Her said Majesty; he, the said A. B.. then well knowing that the said C. D. was a person serving in Her said Majesty's forces by land: against the form of, &c., in that case made and provided. And you, the said keeper," &c., *as ante, p. 8, to the end.*

CONVICTION, WHERE THE DEFENDANT APPEARS AND PLEADS NOT GUILTY.

—, ss. Be it remembered, That, on the — day of —, in the year of our Lord one thousand eight hundred and —, at —, in the county of —, A. B., of —, in the county aforesaid, labourer, personally came before me, J. P., one of Her Majesty's Justices of the Peace for the said county, and informed me, that C. D., of —, in the county of —, on the — day of —, in the year aforesaid, at —, in the said county, did," (*here set forth the fact for which the information is laid;*) contrary to the form of the Act of the General Assembly, in such cases made and provided: whereupon the said C. D., after being duly summoned to answer the said charge, appeared before me on the — day of —, instant, at —, in the said county; and having heard the said charge contained in the said information, (declared he was not guilty of the said offence;" or, "did neglect and refuse to make any defence against the said charge); whereupon, I, the said Justice, did proceed to examine into the truth of the charge contained in the said information; and on the — day of —, aforesaid, at —, aforesaid, one credible witness, to wit, E. F., of —, in the county of —, upon his oath deposeth and saith, in the presence of the said C. D., that" (*here state the evidence, and as nearly as possible in the words used by the witness; and if more than one witness be examined, state the evidence given by each, thus:*) "And one other credible witness, to wit, G. H., of —, in the county of —, upon his oath deposeth and saith, in the presence of the said C. D., that," &c., (*stating his evidence;*) "And also a witness produced and examined on the

part of the said C. D., to wit, I. K., of _____, in the county of _____, upon his oath deposeth and saith, that &c., (*stating his evidence*): "Therefore, it manifestly appearing to me that he, the said C. D., is guilty of the offence charged upon him in the said information, I do hereby convict him of the offence aforesaid, and do declare and adjudge* that he, the said C. D., hath forfeited the sum of _____, of lawful money of the Province of New Brunswick, for the offence aforesaid, to be distributed," (or, "*paid, as the case may be,*") "according to the form of the Act of the General Assembly in that case made and provided; and also that the said C. D. shall forthwith pay unto the said A. B. the further sum of _____, for his costs and charges, by him, the said A. B., about the prosecution in this behalf expended. Given under my hand and seal, the _____ day of _____, in the year of our Lord one thousand eight hundred and _____. J. P. [I. S.]

** Or if imprisonment and hard labour be the punishment assigned, then the adjudication may be thus: "I do declare and adjudge that the said A. B., for his said offence, be imprisoned in the _____, (there to be kept to hard labour,) for the space of _____ calendar months. Given under my hand and seal, the _____ day _____, in the year of our Lord one thousand eight hundred and _____. Care must be taken that this part of the conviction correspond strictly with the Act of the General Assembly, upon which the conviction is framed.*

CONVICTION, WHERE THE DEFENDANT APPEARS AND CONFESSES.

_____, ss. Be it remembered, That, on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, at _____, in the county of _____, A. B., of _____, in the county aforesaid, labourer, personally came before me, J. P., one of Her Majesty's Justices of the Peace for the said county, and informed me, that C. D., of _____, in the county of _____, on the _____ day of _____, in the year aforesaid, at _____, in the said county, did" (*here set forth the fact for which the information is laid*); "contrary to the form of the Act of the General Assembly in such case made and provided: whereupon, the said C. D., after being duly summoned to answer the said charge, appeared before me on the _____ day of _____, instant, at _____, in the said county, and having heard the charge contained in the said information, acknowledged and voluntarily confessed the same to be true: Therefore, it manifestly appearing" (&c., *as in the last form, to the end.*

CONVICTION, WHERE THE DEFENDANT DOES
NOT APPEAR.

_____, ss. Be it remembered, That, on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, at _____, in the county of _____, A. B., of _____, in the county of _____, labourer, personally came before me, J. P., one of Her Majesty's Justices of the Peace for the said county, and informed me, that C. D., of _____, in the county aforesaid, on the _____ day of _____, in the year aforesaid, at _____, in the said county, did" (*here set forth the fact for which the information is laid*); "contrary to the form of the Act of the General Assembly, in such case made and provided: whereupon, the said C. D., after being duly summoned to answer the said charge, did not appear before me, pursuant to the said summons: Nevertheless, I, the said Justice, did proceed to examine into the truth of the charge contained in the said information; and on the _____ day of _____, aforesaid, at _____, aforesaid, one credible witness, to wit, E. F., of _____, in the county of _____, upon his oath deposeth and saith, that" (*here state the evidence, and as nearly as possible in the words used by the witness; and if more than one witness be examined, state the evidence given by each, thus*): "And one other credible witness, to wit, G. H., of _____, in the county of _____, upon his oath deposeth and saith, that" (*stating his evidence*): "Therefore, it manifestly appearing" (&c., as in the last form but one, to the end.

C

Forms of Agreements, Assignments, Bonds, Bills of Sale, Deeds of Land, &c., &c.

LAW SUMMARY.

THE indispensable requisites of all valid contracts, are, *First*, That they should be made by persons having a legal capacity to contract; *Secondly*, That the inducement or motive of the contracting parties, called the consideration, should be legal; *Thirdly*, That they should be made without force or fraud, freely and voluntarily; *Fourthly*, The act performed, or contracted to be performed, by it, must be such as the law permits; *Fifthly*, In general the contract must bind both parties, or else it will be binding on neither of them. But this does not hold with regard to contracts made with infants, where the infant generally is not bound, while the other contracting party is so. Neither does it apply to contracts in which it is stipulated, that it shall be at the option of one of the parties to rescind the contract, within a certain period of time, or by giving notice of his intention.

It is essential to every valid contract, that it should be made upon a sufficient legal consideration. A contract or promise made without any consideration at all, is called *nudum pactum*, or a bare promise, and is wholly void. [See Coggs vs. Barnard, 2 Lord Raym. 909.] But a gift, accompanied with a delivery of the articles, though a species of contract, would be good, so far as to convey all the title which the owner had in them.

But if the giver's title turned out to be bad, no remedy could be had against him; since to imply a warranty of his title to the goods, would be giving effect to a mere *nudum pactum*.

An adequate consideration is by no means necessary to the validity of a contract; since any act, matter, or thing whatever, done by the party to whom a promise or contract is made, at the request of the person making the promise or contract, if it be either prejudicial to the doer, or advantageous to the promiser, will be a sufficient consideration, in law, to make a promise or contract binding. Com. Dig. Assumpsit, B.

When a number of persons jointly agree with another as to any particular matter, the agreement or contract can only be rescinded, or put an end to, by the consent of all. Palmer, Forster et al. v. Long. Burton's Rep. Sup. Co. of N. Bruns. p. 138.

A charter party is a contract for the letting to freight the whole or part of a ship, for one or more voyage or voyages ; such contract is invariably in writing, but it is immaterial whether it be by deed, or writing under hand only. The parties to a charter party may be either the principals themselves or their agents, that is, may be either the ship-owner and merchant, or the master and broker. If the charter party be made at the place of the owner's residence, the former mode is the more usual. If the vessel be hired in a foreign port, the charter party is usually made by the master for the owners—in the latter case, as no one can bind another by deed, unless duly authorised so to do by an instrument of equal authority to himself, the deed of the master, unless accompanied by a previous deed from the owners to such master, cannot bind the owners, or at least does not give the freighters a direct action against them, grounded on the instrument itself. But if the master covenant by deed, and be guilty of any neglect or breach of duty in the conduct of the voyage, or in the care and delivery of the goods, by which the foreign merchant sustains an injury, a special action on the case may be maintained by such foreign merchant against the owners, notwithstanding the master has covenanted by deed. *Leslie v. Watson*, 3 Brod. & Bing. 171.

The first effect of the charter party is, that as it binds the ship to the freighter, so it likewise binds the cargo to the ship, and gives the owners a lien on it for their hire in the first instance. This lien of the ship-owner on the cargo is founded on the same principle as the lien in the ordinary case of carriers, and would subsist by construction of law, although not expressed in terms, as is sometimes the case, in the charter party.

The law of England indeed, in all cases, regards the lien as an equitable right in the circumstances in which it allows it to be exercised ; but as it is necessarily in itself a power of vindicating his own cause in the party using it, the courts strictly confine it to cases of a fixed and ascertained amount of damage. The case in which lien is chiefly exercised, is to enforce the payment of freight, where the merchant who originally freighted the vessel, or the consignee, has become insolvent, and the assignees dispute the amount or conditions, or where the cargo has been transferred by the effect of law, or some subsequent contract, and the obligation of paying the freight has been transferred with it—but even in these cases the amount for which the ship-owner may hold in lien is limited by circumstances.

In order to meet the ordinary circumstances of some unforeseen delay in loading or unloading, it is usually specified in charter parties, that a certain number of days, called running days, shall be allowed for receiving or discharging the cargo ; and that the freighter may detain the vessel for a further specified time, upon the payment of so much *per diem* for such over time,

In many charter parties the contract is, that the vessel shall be loaded and discharged in the usual time, or within a reasonable time, after her arrival in port; in others, this condition is altogether omitted. In all these cases the courts of law will give a liberal construction to the charter party; and will endeavour as much as is possible to understand the actual intentions of the contracting parties, and to give a corresponding effect to their deed.

If the performance of a contract become impracticable through the act of God, and there is no provision therein exonerating the contractor from performance under such circumstances, he must answer for the breach of it in damages. [Shubrick vs. Salmond, 3 Bur. 1637. Ritchie vs. Atkinson, 10 East. 53.] Thus a freighter who covenants generally to load a cargo, and is prevented from so doing by the prevalence of the plague, is liable on his covenant. [Barker vs. Hodgson, 3 M. & S. 267.] Here indeed the principle is obvious; the freighter is the adventurer who chalks out the voyage, and is to furnish, at all events, the subject matter of which freight is to accrue, if the performance of the covenant be rendered unlawful by his own government, the contract is of course dissolved—but if, in consequence of events which happen at a *Foreign* port, the freighter is prevented from furnishing a loading which he has contracted to furnish, the contract is neither dissolved nor is he excused for not performing it, [2 Vernon, 212, & Blight vs. Page. 3 Bos. & Pull. 295.] but must answer the breach in damages. So likewise a contract for the carriage of goods is not dissolved by an embargo suspending its performance, but must be carried into execution on the removal of the embargo. [Hadley vs. Clarke et al. 8. T. R. 259.] But where a foreign ship is chartered in England by a British subject, with the usual exception against restraint of Princes, and performance of the voyage is prevented by an embargo laid by the British government, on ships of that nation, a British subject is discharged from his contract. [Sontang vs. Dubbard, 3 Bos. & Pull. 291.]

If a cause be referred to three arbitrators, with a stipulation that any two may make an award, and two of them meet without notice to the third, and make an award, such award is irregular. [Raymond and another vs. Luke, Berton's Rep. 131.] An award will not be disturbed because the witnesses were examined without being sworn, although the rule of reference required them to be sworn—if the party objecting to the award were present and consented to such examination. [Reilly vs. Gillan, Ib. 135.]

In order to perfect the grant, bill of sale, or assignment, the assignee should immediately take possession of the goods, and not suffer any continued, partial or concurrent, possession by the assignor or his family, or the transfer would be void against cre-

ditors ignorant of, or not concurring in, the transfer [Twyno's case, 3 Coke 81. 1 Camp. 333. 5 Taunt. 212.], unless in some cases of notoriety, of the change of ownership, under an execution or otherwise [2 Bos. & Pull. 59. 8 Taunt. 838.]; or where the right to take possession was only in future or contingent, in which case it suffices to take possession immediately the event has happened, though, in the mean time, creditors may have been misled by the possession having remained in the mortgagor, it being settled that there is no fraud in allowing a continued possession, when consistent with the terms of the deed. [Edwards vs. Harben, 2 T. R. 587.] If the property assigned be at a distance, as a ship at sea, and cannot be immediately delivered, then possession must be taken of all documents relating thereto, and the transfer be duly registered, and the earliest notice of the transfer forwarded to the party in actual possession; and in the case of a written security, or chose in action, or policy of insurance, not only must possession be taken of the security, but notice of the transfer must be given to the debtor or contracting party, for otherwise, at least in the case of the bankruptcy of the transferer, his assigns will be entitled to the property, and the same doctrine applies to the assignment of a post obit bond, or of a policy of insurance, of which notice should be immediately given to the insurer. [Chitty's Gen. P. 107-8.]

A partnership may generally be defined to be a voluntary association of two or more individuals, for the purposes of lawful trade, in which each person is to receive and bear a proportionate ratio of profit and loss. [Cary on Partnership, p. 1.]

A license to cut a certain quantity of timber, from lands described in the license, and to remove the same, does not convey an interest in lands, within the statute of frauds, or give any property in standing trees. Such license gives the licensee no right to timber cut within the described limits by a stranger without authority. Timber so cut remains the property of the owner of the land; against every other person, the possession of the timber, and the labour bestowed upon it, gives the maker, although a wrong doer, the right to it.

If two persons expend labour in cutting and hauling timber, under an agreement that such timber is to be got on the halves, they are tenants in common, and neither can convey as against the other, more than his share. [Kerr vs. Connell, Berton's Rep. p. 151.]

It was decided by the Supreme Court of this Province, in Wiggins vs. White Garrison and Woods, Berton's Rep. p. 111, that the parties to the following agreement *were not partners*, but

were only tenants in common, or joint owners, and each had only a right to dispose of his own share.

"This agreement, made and entered into this day, between Geo. A. Lockwood, of the one part, and George Woods, of the other part—witnesseth: The said Woods is to make one thousand tons white pine timber, on Little River, at the Grand Falls—pay the stumpage (*each to pay half, and the said Woods to advance*), and make said timber in such a place, as not to have more than two miles to haul on an average—*each to find equal hands* in cutting all main roads through the timber, and clearing the stream sufficient to drive said timber; *and said Lockwood is to haul said quantity of one thousand tons one half on the brow*. Each party to find equal hands and supplies to drive and raft and take the same to market—said Woods to take all defective timber when re-examined at Saint John—and said Lockwood to take any timber that may remain in the woods of the said quantity: should he fail in hauling the said quantity—and should he be kept idle for want of timber to haul, his time to be paid for by the said Woods. For the true and faithful performance of this agreement, each bind themselves, one to the other, in the penal sum of Five Hundred Pounds of lawful money of New Brunswick. Dated the 18th day of October, 1831.

(Signed)

GEO. WOODS,

GEO. A. LOCKWOOD."

"Witness present,

(Signed)

JOHN GRANT."

A deed whereby the releasor released to the releasee, his heirs and assigns, all his right, title, interest and claim to certain lands, to have and to hold the same to him, his heirs and assigns for ever; the same having been duly executed, proved, and registered, pursuant to the Act of Assembly, 26 Geo. 3. c. 3, is a good conveyance of lands, within the meaning of the tenth section of said Act. [Doe. ex dem. Wilt. vs. Jardine, Berton's Rep. 161.]

OF BONDS IN GENERAL.

A bond or obligation is an instrument *under seal*, whereby one person becomes bound to another, for the payment of a sum of money, or for the performance of any other act or thing. The person who is thus bound is called the obligor, and he to whom the bond is given, the obligee. And this obligation may be either by or to one or several persons.

If a bond be merely for the payment of money, without any condition in or annexed to it, it is called a simple or single bill or bond. [2 Blac. Com. 340, and see Morrant vs. Gough, 7 B. & C. 211.] But it is in general accompanied with a condition in the

nature of a defeasance, the performance of which is secured by a penalty, in which case it is called a conditional bond; [Co. Lit. 172, a.] and this condition expressly mentions the money to be paid, or other act or thing to be performed or suffered, and the particular time limited for that purpose, and if the condition be broken, the bond becomes forfeited or absolute in law.

In considering who may be parties to a bond or obligation, it may be observed, that in general no person who is under any legal disability to contract can become an obligor, though it is otherwise of an obligee.

Thus a bond given by a married woman will neither bind her or her husband, but is absolutely void in law. [Vin. Ab. Oblig. (A); Bac. Ab. Oblig. (D).] Nor will a divorce *a mensa et thoro* make any difference in this respect; but after a divorce *a vinculo matrimonii*, [Slatchall v. Baddeley, 2 Black. 1082; Lewis v. Lee, 3 B. & C. 297.] or if her husband have been transported for life, or having been transported for a less period, remains abroad after his period of transportation has expired; or if he be an alien and was never in this kingdom; [See Ray v. Duchesse d. Pienne, 3 Camp. 123.] or if his death be presumed, as in the case of his having left this country and not having been heard of for seven years, his wife is capable of executing a valid bond. And if a woman married *de facto* to one whom she knows to have another wife, execute a bond, it will bind her, even though executed jointly with him. [Austie v. Mason, 3 Anst. 833.]

An infant, being under a general disability to make a deed, cannot bind himself unless the bond be given for the amount of necessaries, and in that case it must be a single bill or bond for the exact sum due; [Russell v. Lee, 1 Lev. 186.] for if there be a penalty with condition for payment of the sum laid out in necessities, the bond may be avoided by plea of infancy. [Ayliffe v. Archdale, Cro. Eliz. 920. Moore, 679, S.C.] So if the bond of an infant be conditioned for the payment of interest, the whole security will be void, [*Ibid.*] for an infant cannot bind himself to his prejudice. [Zouch v. Parsons, 3 Burr. 1794.] Nor will a confirmation by an infant, after he has attained his majority, give validity to a bond originally void, unless there be an estoppel in law by an instrument of as high a nature as the obligation itself. [Baylis v. Dinoly, 3 M. & S. 477.]

A corporation may bind themselves in an obligation sealed with their common seal. [Vin. Ab. tit. Corpor. (G 2).]

Although a married woman is in general incapable of executing a bond, yet a bond given to her is valid, and the interest in it will vest in her husband, who may either sue alone upon it, or his wife may be joined. But if the husband expressly disagree to the bond, it will by his refusal lose its force and become no deed. [Whelpdale's case, 5 Co. 119 b.; Co. Lit. 3 a.]

If a bond be given to husband and wife, they will be jointly interested in it, and unless the husband in his lifetime disagree to his wife's right thereto, she will, after his death, be entitled to it by survivorship. [Bro. Bar. & Feme, pl. 60.]

So a bond may be given to an infant, an idiot, a lunatic, or an alien. [Bac. Ab. Oblig. (D) 2.]

The obligor must be bound in a sum of money, and an omission in this respect will invalidate the bond. [Loggins v. Titherton, Yelv. 225.] If, however, the sum be merely improperly expressed, the Courts will in general supply the deficiency, and construe it so as to give effect to the intention of the parties, if such intention can be collected from the other parts of the instrument. [Hulbert v. Long, Cro. Jac. 607.] Thus, where the obligor acknowledged himself bound in 7,700 without any species of money being mentioned, and the condition of the bond recited that he was indebted to the obligee in various sums of money, which were all stated in *pounds sterling*, and that the bond was given to secure payment of those sums, it was held that, as the condition showed the species of money in which it was intended the obligee should be bound, the word *pounds* might be supplied in the obligatory part of the bond. [Coles v. Holmes, 8 B. & C. 506.]

No particular form of words is necessary to create a bond or obligation. Any mode of expression by which the intention of the parties clearly appears will be sufficient. Thus, if it be merely stated that I, A. T. of, &c., do owe C. of, &c., £10, to be paid at Easter next; this, if *under seal*, will amount to an obligation: or, if the words used are, I, A. of, &c., "do promise, or agree, to pay to," or "will pay to," or "have borrowed of," C. of, &c., or any other language which clearly denotes an acknowledgment of a debt. [See instances in Shep. Touch. 368.] So an instrument intended to be a statute staple, but void for that purpose on account of the omission of some requisite formality, may nevertheless be valid as an obligation. [Hollingworth v. Ascue, Cro. Eliz. 355.] And where a person admits himself indebted to another in a certain sum to be paid at a future day, and for payment thereof binds himself without mentioning to whom he is bound, the bond will notwithstanding be good, since it will be intended that he is bound to the person to whom he acknowledges the debt. [Langdon v. Goole, 3 Lev. 21.] Modern practice, however, has adopted one particular form which is in general adhered to; so that in the present day it is seldom or ever that any question, so frequent in earlier periods, arises upon the words sufficient to create a bond.

AGREEMENT TO BUILD A HOUSE, THE MATERIALS TO BE PROVIDED BY
THE BUILDER; WITH SPECIAL CLAUSES.

Articles of agreement, made between A., (*the builder*), of —, &c., of the one part, and B., (*the proprietor*), of —, &c., of the other part.

First. The said A. doth hereby for himself, &c., covenant and agree with the said B., his &c., that he, the said A., his &c., shall or will, for the considerations hereinafter mentioned, within the space of — months from the date of these presents, erect, build, and completely cover in and finish upon the premises of the said B., at — aforesaid, a dwelling-house and buildings, according to the plan and elevation set forth in the schedule hereunder written. And also do, perform, and execute, all and singular the works also mentioned in the said schedule, and according to the plan and elevation therein mentioned or contained; the same to be done within the time aforesaid, and in a good, workmanlike manner, *to the satisfaction of C. D., of &c., (Surveyor or Architect,) for this purpose agreed upon by the said A. and B., to be testified by a writing or certificate under the hand of the said C. D.* And also, shall and will find and provide such good, proper, and sufficient materials, of all kinds whatsoever, as shall be suitable for erecting the said dwelling-house and buildings, and completely finishing the said works.

Clause, to be inserted at discretion, if the builder makes default, the proprietor to finish the work, and deduct the expenses.

And it is further agreed, by and between the said parties, that, if the said A., his executors, &c., shall in any manner neglect, or be guilty of any delay whatsoever, in building and finishing the said dwelling-house, buildings, and works as aforesaid; and the said B. shall give or leave notice, in writing, of such neglect or delay, at the place of abode of him, the said A., his executors, &c., and the said B., his executors, &c., shall not proceed to complete the said buildings within the space of — days after such notice is given or left as aforesaid; then, and in any such case, it shall be lawful for the said B., his, &c., to purchase proper and sufficient materials; and also to employ a sufficient number of workmen to finish and complete the said dwelling-house, buildings and works; and also that the said B., his executors, administrators, and assigns, shall and may deduct, and retain to himself and themselves, the cost of such materials, and all such sum and sums of money, as he or they shall pay to such workmen, for the completion of such dwelling-house, &c., out of the money which shall be due to the said A., his, &c., under this agreement; and also, that the said A., his, &c., shall not nor will in any manner

do or cause to be done, any act, matter, or thing, to prevent, hinder or molest the said B., his executors, &c., or any person or persons employed by him or them, from completing and finishing the said dwelling-house, &c., in manner aforesaid, or in using the materials which shall be on the said premises, and provided by either of the said parties for the doing thereof.

(The mode of Payment.)

And the said B. doth hereby for himself, his heirs, executors, &c., covenant and agree with the said A., his, &c., that he, the said B., shall and will well and truly pay to the said A., his &c., the sum of _____, within _____ months next after the said dwelling-house, buildings and premises shall be completely built, ~~done~~, and finished, *(to the satisfaction of the said C. D., as aforesaid, the same to be testified in writing under his hand.)*

(Extra Work to be Paid for.)

And it is hereby declared and agreed, by and between the said parties hereto, that in case the said B., his executors, &c., shall direct more work to be done, in or about the said dwelling-house, buildings and works, than is contained in the schedule hereunder written, then, and in such case, the said B., his, &c., shall pay to the said A., his, &c., so much money as such extra work, and the materials used therein, shall cost or amount unto, anything hereinbefore contained to the contrary notwithstanding.

(Omitted Work to be Deducted.)

And in case it should be thought proper by the said B., his executors, &c., to diminish or omit any part of the work in the said schedule hereunder written, then, and in such case, the said A., his, &c., shall deduct and allow out of the said sum of _____, so much money as the work so to be diminished or omitted shall amount unto, upon a reasonable valuation, anything hereinbefore contained to the contrary notwithstanding: *(and all allowances or deductions, for such extra or omitted works, respectively, shall be ascertained and settled by the said C. D.)*

(An Agreement to refer Disputes to Arbitration, may be inserted, if thought expedient.)

In witness whereof, the said parties have hereunto set their hands and seals, this _____ day of _____, in the year &c.

Signed, sealed, and delivered,
in presence of _____.

[L. S.]
[L. S.]

(A Clause, in which the Proprietor agrees to pay Workmen's Wages, which may be inserted in any such agreement.)

And that the said B., his executors, &c., shall and will, every week during the progress of the said buildings and works, pay and supply the said A., his, &c., with such sums of money as shall be sufficient for paying and discharging the wages and labour of the workmen and labourers, who shall from time to time be employed in or about the said buildings or works; the amount whereof shall be ascertained by the said C. D., by a certificate under his hand, and the remainder of the said sum of ——, (as before).

**AN AGREEMENT FOR BUILDING A HOUSE, ACCORDING TO A PLAN
ANNEXED.**

Be it remembered, That, on this — day of —, &c., it is agreed between A. B., of —, and C. D., of —, in manner and form following, viz : The said C. D., for the considerations hereinafter mentioned, doth, for himself, his executors and administrators, covenant, promise, and agree to and with the said A. B., his executors, administrators, and assigns, that he, the said C. D., or his assigns, shall and will, within the space of — next after the date hereof, in good and workmanlike manner, and according to the best of his art and skill, at — well and substantially erect, build, set up, and finish, one house or messuage, according to the draught or scheme hereunto annexed, of the dimensions following, viz.: &c., and to compose the same with such stone, brick, timber, and other materials, as the said A. B., or his assigns, shall find and provide for the same; in consideration whereof, the said A. B. doth, for himself, his executors and administrators, covenant and promise, to and with the said C. D., his executors, administrators, and assigns, well and truly to pay, or cause to be paid, unto the said C. D., his, &c., the sum of —, in manner following, (that is to say,) the sum of —, part thereof, at the beginning of the said work; the sum of — more, another part thereof, when the said work shall be half done; and the remaining sum of —, in full for the said work, when the same shall be completely finished; and also that he, the said A. B., his executors, administrators, or assigns, shall and will, at his and their own proper expense, find and provide all the stone, brick, boards, timber, and other materials necessary for making and building the said house. And for the performance of all and every the articles and agreements above mentioned, the said A.

B. and C. D. do hereby bind themselves, their executors, &c., each to the other, in the penal sum of, &c., firmly by these presents. In witness (conclude as ante, p. 28). [L. S.] [L. S.]

AN AGREEMENT FOR BUILDING AND COMPLETING A SHIP, BETWEEN A MERCHANT AND A SHIPWRIGHT, WITH SPECIAL PROVISIONS AS TO PAYMENT, ETC.

Articles of agreement, made between A., (*the builder,*) of, &c., and B., (*the merchant,*) of, &c.

Whereas it hath been agreed, by and between the parties hereto, that the said A., shall, at his present place of building, on or before the _____ day of _____ next, in a workmanlike manner, build for the said B., the hull of a ship or vessel of the dimensions hereinafter mentioned, for the price or sum of _____, and such other and further sum and sums of money, to be ascertained and paid at such times and in such manner, as hereinafter is mentioned and specified; in consideration of the said agreement, and of the sum of _____, part of the said sum of _____, by the said B., to the said A., in hand paid, at the execution of these presents, the receipt whereof is hereby acknowledged, he, the said A., doth covenant and agree with the said B., his executors, &c., to build and construct, for him, the said B., his &c., the hull of a ship or vessel, of the following description or dimensions, that is to say, (*here particularly describe the dimensions of the vessel, and quality of the wood, &c., with which she is to be built,*) and fitted up and finished in a substantial and workmanlike manner, with all things necessary, and usually made and provided by ship-builders, for ships of such burthen and construction as the intended vessel shall be; and the said ship or vessel shall, on or before the said _____ day of _____, be launched, and brought and moored in safety in the harbour of _____. And the said B., in consideration of the said ship being so built and launched as aforesaid, doth covenant and agree with the said A., his executors, &c., in manner and form following, that is to say: that he, the said B., his, &c., shall and will pay, unto the said A., his, &c., the further sum of _____, other part of the said sum of _____, upon laying the harpings of the said vessel; _____ more, other part of the said sum of _____, upon laying the deck, and _____, the residue of the said sum of _____, upon launching and mooring the said vessel in safety in _____ harbour.

And it is also agreed between the said parties hereto, and particularly the said A., doth agree, that the same hull, from time to time during the building thereof, and until the same shall be so

moored in safety as aforesaid, and assigned to the said B., his executors or administrators, shall stand charged with, and be a security to him and them for the said sum of ——, already paid, and for such further and other sum and sums of money as shall be paid to the said A., his executors, &c., in pursuance of this agreement; To the intent, that the said hull shall not be or become liable or subject to the debts, contracts or engagements, or otherwise affected by any act of the said A., his executors or administrators, to the prejudice of the said B., his, &c. And that the said A., his executors or administrators, shall and will, after the said hull shall be so moored in safety in the harbour of ——, as aforesaid, by some proper deed, or instrument in writing, assign the same, free from all incumbrances, to the said B., his executors or administrators, at his and their request, and costs and charges. In witness, (conclude as ante, p. 28).

AN AGREEMENT FOR THE FREIGHT OF A SHIP.

Articles of agreement, made between W. M., master of the ship G., burthen about — tons, now at anchor, &c., and forthwith bound out on a voyage to L., of the one part; and Y. Y., of, &c., merchant, of the other part.

The said W. M., for the consideration hereunder mentioned, doth covenant with the said Y. Y., his, &c., that the ship aforesaid shall, with all expedition, be made ready and provided in all respects, for the voyage aforesaid, and shall receive on board for the said Y. Y., the goods following (*here enumerate them*), and within — days after the date hereof, shall set sail from — outwards, and, weather serving, shall sail directly to L., and within — days after her arrival there, shall unload and deliver the same unto the agent or consignee of the said Y. Y., (the dangers of the seas, enemies, and the restraints of Princes and Rulers only excepted;) And the said Y. Y., for himself, &c., doth covenant with the said W. M., his, &c., that he, the said Y. Y., his, &c., shall lade, or tender the said goods to be laden, on board the said ship, and receive and discharge the same from on board the same, at L., aforesaid, within the respective times before limited; and will pay unto the said W. M., his, &c., for freight thereof, at the rate of —, immediately after a right discharge and delivery of the same at L. aforesaid, with primage and average accustomed, and two-thirds of all port charges to grow due during the said voyage; the other third part thereof to be paid by the said W. M. In witness, (conclude as ante, p. 28).

[L. S.]
[I. S.]

**A SHORT AGREEMENT FOR LETTING A HOUSE FOR ONE YEAR CERTAIN,
AND FOR SUCH FURTHER TIME AS BOTH PARTIES SHALL AGREE.**

Agreed the ____ day of ____, between, &c.

The said J. B. doth let unto the said J. P., and he takes, all that, &c., for one year from, &c., and for such longer time after the expiration of the said one year, as both the said parties shall agree, and until the end of three months after notice shall be given, by either of the said parties to the other of them, for leaving the said premises, at, &c., for the yearly rent of ____, to be paid quarterly from the first day of ____, next, by even and equal portions, which said yearly rent the said J. P. doth hereby for himself, his executors and administrators, covenant and agree to pay to the said J. B., his executors, administrators and assigns, accordingly, for so long time as he shall hold and enjoy the said premises as aforesaid, and until the end of the said three months, next after notice shall be given by either of the said parties to the other of them, for leaving the said premises as aforesaid. In witness, &c.

COMMON BOND OF ARBITRATION.

Know all men by these presents, that I, A. B., of ____, in the parish of ____, in the county of ____, gentleman, am held and firmly bound to E. F., of ____, in the county of ____, merchant, in the sum of ____ pounds of good and lawful money of New Brunswick, to be paid to the said E. F., or to his certain attorney, executors, administrators or assigns; for which payment to be well and truly made, I bind myself, my heirs, executors, and administrators, firmly by these presents, sealed with my seal, dated the ____ day of ____, in the year of our Lord one thousand eight hundred and ____.

The condition of this obligation is such, that if the above bounden A. B., his heirs, executors, and administrators, on his or their parts and behalves, shall and do in all things well and truly stand to, obey, abide by, perform, fulfil, and keep the award, order, arbitrament, and final determination of M. N., of ____, and P. Q., of ____, arbitrators, indifferently elected and named, as well on the part and behalf of the above bounden A. B. as of the above named E. F., to arbitrate, award, order, judge and determine of, and concerning all, and all manner of, action and actions, cause and causes of action, suits, bills, bonds, specialties, judgments, executions, extents, quarrels, controversies, trespasses, damages, and demands whatsoever, at any time heretofore

had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed, or depending by and between the said parties, so as the said award be made in writing, under the hands of the said M. N. and P. Q., and ready to be delivered to the said parties in difference, or such of them as shall desire the same, on or before the — day of —, then this obligation to be void, or else to remain in full force and virtue.

In witness whereof, the said A. B. hath hereunto set his hand and seal, this — day of —, &c.

Sealed and delivered, }
in presence of, }

L. S.

AN ASSIGNMENT OF A BOND BY ENDORSEMENT.

Know all men by these presents, that I, the within-named A. B., in consideration of, &c., to me paid by C. D., of —, do hereby transfer to him the within written bond, and all sums of money payable by virtue thereof; and hereby do constitute him attorney, irrevocable, in my name to demand, recover, and receive the same, to his own use; and I covenant, in case of my death before the same shall be recovered, that my executors or administrators shall give him full power to recover the same. In witness, (*conclude as in the last form*).

[L. S.]

AN ASSIGNMENT OF A DEBT AS SECURITY, WITH POWER OF ATTORNEY.

Know all men by these presents, that I, A. B., of —, gentleman, in consideration of —, now due by me to C. D., of —, trader, and for better securing the payment of the same to the said C. D., have granted, assigned, and transferred, and by these presents do grant, &c., all that sum of money now owing to me from E. F., for, &c., before the day of the date hereof, and all my right, interest and demand, in and to the said sum of money, and every or any part thereof; To hold to the said C. D., his executors, administrators, and assigns, to his and their use forever; nevertheless, under the condition hereinafter named. And I do hereby constitute and appoint the said C. D. my attorney irrevocable, in my name, but at the charges of the said C. D. and to his own use, to demand, sue for, recover, levy, receive, release, and discharge the said debt, and every or any part thereof; and generally in my name, or in the name of my executors and administrators, to make, do, and perform all and every such further

and other acts, matters, and things touching the premises, as to the said C. D., his executors or administrators, shall seem requisite, as effectually as I, or my executors or administrators, might have done. Hereby ratifying and confirming whatever he or they shall lawfully do or cause to be done, in or about the premises. And I do hereby covenant and agree to and with the said C. D., his executors and administrators, that I have not done or suffered, and will not do or suffer, any act, matter or thing, whereby the said C. D., his executors or administrators, may be hindered from recovering or receiving the said debt hereby assigned, or any part thereof, or any satisfaction therefor. And further, that I, my executors and administrators, shall and will at all times hereafter, at the request of the said C. D., and at his charges, make, do, and execute all such further and other acts and deeds, as shall be reasonably required for the proving of the said debt, and the more effectually enabling him or them to recover, receive, and enjoy the same, according to the true intent and meaning of these presents. Provided always, that if I, the said A. B., my executors or administrators, shall pay, or cause to be paid, to the said C. D., his executors, administrators or assigns, the said sum of _____, due to him as aforesaid, within three months from the date hereof, then this assignment, and every matter and thing herein contained, shall be void to all intents and purposes whatsoever. In witness, (*for conclusion see ante, p. 33.*)

I. S.

**AN ASSIGNMENT OF ALL THE DEBTOR'S PERSONAL AND REAL ESTATE,
FOR THE BENEFIT OF CREDITORS.**

An indenture made and concluded this _____ day of _____, between A. B., of _____, of the first part, and C. D., of _____, of the second part, and the creditors of the said A. B. who have signed and sealed these presents, of the third part. Whereas the said A. B. is at present unable to pay all his just debts, and hath agreed to assign and convey all his estate, real, personal, and mixed, unto the said C. D., in trust for the benefit of all his creditors, in manner hereinafter mentioned: Now this indenture witnesseth, that the said A. B., in consideration of the premises, and of _____ paid him by the said C. D., the receipt whereof, &c., doth hereby grant, bargain, sell, and convey unto the said C. D., his heirs and assigns, all the said A. B.'s lands, tenements and hereditaments, goods, chattels, (except household furniture and stores,) merchandize, debts, and sum and sums of money due, owing or belonging unto the said A. B., and all securities had, taken, and obtained for the same, and all his right, title, and

interest in and to the same; to have and to hold the same with the appurtenances to the said C. D., his heirs, executors, administrators, and assigns, upon the special trusts, nevertheless, that the said C. D. shall forthwith take possession and seizin of the premises, and within such convenient time as to him shall seem meet, by public or private sale, for the best price that can be procured, shall convert all and singular the premises into money, and as soon as possible, collect all and singular the debts, and sum and sums aforesaid, and after deducting the costs and charges of the trusts before mentioned, shall pay and apply the monies arising therefrom in manner following, that is to say: _____, and secondly out of the residue shall pay and discharge in equal proportions, the respective debts of all the creditors aforesaid, who have signed and sealed these presents; and in the third place, after the full satisfaction and discharge of the debts above mentioned, out of the residue (if any) shall pay all other creditors of the said A. B. in equal proportions; and, in the last place, shall pay over the surplus (if any) to the said A. B., his executors, &c. And the said A. B., in furtherance of the premises, doth hereby make, constitute and appoint the said C. D. his true and lawful attorney irrevocable, in his name or otherwise, and upon and for the trusts aforesaid, to ask, demand, recover, and receive of and from, all and every person and persons, all and singular goods, chattels, wares, merchandise, debts, sum and sums of money, and demands, due, owing, or belonging unto him, and upon all receipts and deliveries in the premises, due acquittances and discharges, in his name or otherwise, to make, execute, and acknowledge, and in default of delivery or payment in the premises, to sue, prosecute, and implead for the same, and to compound and agree for all or any part thereof, as he may see meet, and upon such composition or other agreement to make due acquittances and releases, and also for all or any of the purposes aforesaid, to constitute one or more attorney or attorneys under him, the said C. D. Hereby giving and granting to my said attorney and his substitutes, full power and authority in the premises to do all things necessary and proper for the full and complete execution of the trusts aforesaid.

And the said A. B. for himself, &c., doth covenant, &c., to and with the said C. D., his, &c., that he, the said A. B., his, &c., shall not, nor will, in any manner, release or discharge any rights, debts, demands, or credits, due, owing, or belonging unto him, nor in any way obstruct, or hinder the said C. D., his, &c., in the recovering, receiving, or getting in of the same; that he, the said A. B., will ratify and confirm whatsoever the said C. D., or his, &c., may or shall do, by virtue hereof, in the premises, and further that he, the said A. B., at the costs and charges of the creditors aforesaid, (or at his own charges,) from time to time, make,

do, and execute, all and every such further acts, matters and things, for the better and further assigning and assuring of all and singular the premises, to und for the trusts and purposes aforesaid, as by the counsel, learned in the law, of the said C. D. may be reasonably advised and required; and further, that he the said A. B. will, and his, &c., shall from time to time, as occasion may require, upon reasonable request and notice, to him by the said C. D., his, &c., given, assist him and them in making up his accounts, and in getting in the said debts, &c., according to the best of his power and ability. And the said C. D., for himself, his, &c., doth hereby covenant, &c., to and with the said creditors of the said A. B., who have signed and sealed these presents, that he the said C. D., his, &c., shall and will, from time to time, and at all times hereafter, as often as he or they shall thereunto be required by the same creditors, or a major part of them, at a meeting to be called for that purpose, by advertisement in the newspapers published in B., &c., make, give, and render a just account of all sums of money, received and got in by him or them by reason of the premises, together with the time when and the persons from whom the same shall be received, and also will, upon request and notice, to him in manner aforesaid given, well and truly pay, distribute and divide the same, according to the trusts before mentioned, and so from time to time, and at all times hereafter, pay, distribute, and divide, all sums of money received by him in the premises, as often as shall be required by the said creditors, or a major part of them, at such meeting as aforesaid. And further, that he, the said C. D., his, &c., shall and will faithfully and justly conduct himself, according to his best skill, power, ability and knowledge, in the execution of the trusts reposed in him, in all respects whatsoever, &c. In witness, &c.

AN ASSIGNMENT OF A LEASE BY AN ENDORSEMENT THEREON.

Be it remembered, that I, the within named W. B., for and towards satisfaction of the sum of — by me due and owing unto B. H., of —, and for and in consideration of the sum of five shillings, to me in hand paid at or before the sealing and executing of this endorsement, (the receipt whereof I do hereby acknowledge,) have, for me, my, &c., granted, bargained, sold, assigned, and set over, and by these presents do, &c., unto the said B. H., his, &c., as well the within written indenture, as also all the messuages or tenements, hereditaments, and premises within mentioned, to be demised or granted to me, and likewise all my estate, right, title, interest, claim, property, and demand, of, in, or to the same, which I now have, or hereafter may have or claim,

of, in or to the same, either by force, virtue, or means of the
within written indenture, or otherwise howsoever.

Witness my hand and seal, this — day of —, &c.

A MUTUAL ASSIGNMENT BETWEEN TWO PARTNERS (UPON DETERMINING THE PARTNERSHIP) OF DEBTS, WHICH ARE DIVIDED EQUALLY, AND MENTIONED IN TWO SCHEDULES, AND ASSIGNED TO EACH OTHER RESPECTIVELY.

An indenture, made, &c., between A., &c., of the one part, and B., &c., of the other part. Whereas the said parties were lately co-partners in the trade of —, which partnership is determined; and whereas several debts, owing to the said parties on account of their late partnership, which are mentioned in the two schedules hereon endorsed, are still standing out and unreceived, and they have agreed to divide the same in manner as hereunder is mentioned, viz.: the said A. is to have and receive the debts mentioned in the first schedule hereon endorsed, to his own use; and the said B. to have, &c., in the second schedule, &c.: Now, therefore, these presents witness, that in pursuance of the said agreement, and in consideration of, &c., to the said A. in hand paid by the said B., he the said A. doth hereby fully and absolutely assign and release unto the said B., his, &c., to his and their own proper use and uses, without any account to be made or given, for or concerning the same, all his right, title, claim, interest, part, share, benefit, and demand whatsoever, of, in, and to the said several demands and sums of money due and owing to the said parties on their joint account as aforesaid, mentioned in the said second schedule hereon endorsed, by virtue of the said co-partnership, or otherwise howsoever. And the said A. doth hereby make and appoint the said B., his executors, &c., his attorney and attorneys, &c., to receive the said debts, mentioned in the said second schedule, to his and their own use and uses as aforesaid, from the several persons therein mentioned, and all others whom it may concern; and upon receipt, &c., &c., (*see Letters of Attorney.*) And these presents further witness, that in pursuance of the agreement aforesaid, and in consideration of, &c., (*B. in like manner assigns to A. the debts mentioned in the first schedule, and empowers him to receive the same,*) and each of them, the said A. and B., for himself, his executors and administrators, doth hereby covenant, &c., to and with the other of them, his executors, &c., as follows, that is to say, that neither of them, the said A. and B., hath at any time heretofore received, released or discharged the debts herein before assigned and released to the other of them, or any of the said debts, or any part thereof;

and that either of them, or the executors or administrators of either of them, shall not nor will, at any time hereafter, receive, &c., the debts by him respectively assigned to the other of them, or any part thereof, and shall not nor will institute or commence any action, suit or process, for the recovering and receiving thereof, unless at the request, and with the consent in writing for that purpose, under the hand and seal of the other of them, his executors and administrators; and that each of them, his executors and administrators, shall and will, at the request and charge of the other of them, his, &c., do any further act, for the better and more perfect assigning, releasing, and confirming the debts herein assigned by them respectively, unto the other of them, his, &c., and for the enabling him and them to receive and recover the same, to his and their own use and uses as aforesaid, as shall be reasonably required; and lastly, that in case it shall appear to be proved, that either of the said parties hath received any of the debts hereinbefore assigned to the other of them, or any part thereof, in such case, such of the said parties who shall so have received the same, his executors or administrators, shall and will pay and make good, the full debts so by him received or discharged, to the other of them, his executors or assigns, within one month after notice thereof, to him or them to be made, or given.

In witness, &c.,

A BILL OF SALE OF GOODS AND CHATTELS.

Know all men by these presents, that I, A. B., &c., in consideration of the sum of _____, to me paid by C. D., &c., the receipt whereof I do hereby acknowledge, have granted, bargained, sold, and confirmed, and by these presents do grant, &c., unto the said C. D., all the goods, household stuff, and implements of household stuff mentioned in the schedule hereunto annexed. To have and to hold all and singular the said goods, &c., unto the said C. D., his executors, administrators and assigns forever. And I, the said A. B., my executors and administrators, all and singular the said goods and household stuff, unto the said C. D., his executors, &c., against all and every other person and persons whatsoever, shall and will warrant and forever defend by these presents; of which goods, &c., I, the said A. B., have put the said C. D. in possession by delivering him one silver cup, in the name of all the said goods and chattels, at the sealing and delivering thereof.

Sealed and delivered, and livery of seizin of the goods

above bargained and sold, delivered by the said A. B.'s giving and delivering to the said C. D. one silver cup in the name of the whole goods and premises, in the presence of _____.

[L. S.]

ARTICLES OF CO-PARTNERSHIP BETWEEN TWO TRADESMEN.

Articles of agreement, had, made, concluded and agreed upon, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____, between A. B., of _____, trader, and C. D., of _____, trader.

First of all, the said A. B. and C. D. have agreed, and by these presents do agree, to become Co-partners together in the art or trade of _____, and all things thereto belonging, and also, in buying, selling, vending and retailing all sorts of wares, goods and commodities belonging to the said trade of _____, which said Co-partnership, it is agreed, shall continue from, &c., for and during and unto the full end and term of _____ years, from thence next ensuing, and fully to be complete and ended. And to that end and purpose he, the said A. B., hath, the day of date of these presents, delivered in as stock, the sum of, &c., and the said C. D. the sum of, &c., to be used, laid out and employed in common trade between them, for the management of the said trade of, _____, to their utmost benefit and advantage. And it is hereby agreed between the said parties, and the said Co-partners, each for himself respectively, and for his own particular part, and for his executors and administrators, doth covenant, promise and agree, to and with the other of them, his executors and administrators, by these presents, in manner and form following, that is to say: That they, the said Co-partners, shall not nor will, at any time hereafter, use, exercise, or follow the trade of _____, aforesaid, or any other trade whatsoever during the said term, to their private benefit and advantage; but shall and will, from time to time, and at all times, during the said term, (if they shall so long live,) do their and each of their best and utmost endeavours, in and by all means possible, to the utmost of their skill and power, for their joint interest, profit, benefit and advantage, and truly employ, buy, sell, and merchandize, with the stock aforesaid, and the increase thereof in the trade of _____, aforesaid, without any sinister intentions or fraudulent endeavours whatsoever. And also that they, the said Co-partners, shall and will, from time to time, at all times hereafter, during the said term, pay, bear, and discharge, equally between them, the rent of the shop, which they, the said Co-partners, shall rent or hire, for the joint exercising or managing of the trade aforesaid. And that all such gain, profit and increase, as shall come, grow, or arise, for or by reason of the said trade, or joint business as aforesaid, shall be from time to time, during the said term, equally and proportionably divided between them, the said Co-partners, share and share alike. And also that all such losses as shall happen in the said joint trade, by bad debts, ill commodities, or otherwise, without fraud or covin, shall be paid and borne equally and proportionably between them.

And further, it is agreed by and between the said Co-partners, that there shall be had and kept from time to time, and at all times during the said term and joint business and Co-partnership together as aforesaid, perfect, just and true books of accounts, wherein each of the said Co-partners shall duly enter and set down, as well all money by him received, paid, expended, and laid out, in and about the management of the said trade, as also all wares, goods, commodities, and merchandises, by them or either of them bought and sold, by reason or means or upon account of the said Co-partnership, and all other matters and things whatsoever, to the said joint trade, and the management thereof, in any wise belonging or appertaining, which said books shall be used in common between the said Co-partners, so that either of them may have free access thereto without any interruption of the other. And also that they, the said Co-partners, once in three months, or oftener if need shall require, upon the reasonable request of one of them, shall make, yield and render, each to the other, or to the executors or administrators of the other, a true, just, and perfect account of all profits and increase, by them or either of them made, and of all losses by them or either of them sustained, and also of all payments, receipts and disbursements whatsoever, by them or either of them made or received, and of all other things by them or either of them acted, done, or suffered, in the said Co-partnership and joint business as aforesaid; and the same account being so made, shall and will clear, adjust, pay, and deliver each unto the other, at the time of making such account, their equal shares of the profits so made as aforesaid; and at the end of the said term of —, or other sooner determination of these presents (be it by the death of one of the said partners, or otherwise), they, the said Co-partners, each to the other, or in case of the death of either of them, the surviving party to the executors or administrators of the party deceased, shall and will make a true, just, and final account of all things as aforesaid, and divide the profits aforesaid, and in all things well and truly adjust the same, and that also upon the making of such final account, all and every the stock and stocks, as well as the gains and increase thereof, which shall appear to be remaining, whether consisting of money, wares, debts, &c., shall be equally parted and divided between them, the said Co-partners, their executors or administrators, share and share alike. In witness, &c.

DEED OF QUIT CLAIM.

Know all men, by these presents, that I, A. B., of —, Esquire, in consideration of the sum of —, to me paid by C. D.,

of _____, gentleman, the receipt whereof I do hereby acknowledge, have remised, released, and for ever quitclaimed, and by these presents do remise, release, and for ever quitclaim, unto the said C. D., his heirs and assigns, a certair messuage now in the seizin and possession of the said C. D., situate, &c. To have and to hold the aforesaid premises, with all the privileges and appurtenances to the said messuage, &c., belonging or appertaining, unto the said C. D., his heirs and assigns, to his and their sole use for ever; so that neither I, the said A. B., nor my heirs, nor any person or persons claiming under me or them, shall at any time hereafter, by any way or means, have, claim, or demand any right or title to the aforesaid premises or appurtenances, or to any part or parcel thereof, forever. In witness, &c.

A COMMON INDENTURE OF APPRENTICESHIP.

This indenture witnesseth, that A. B., son of B. B., of, &c., doth put himself apprentice unto C., of, &c., to learn the art of a _____, which he the said C. now useth, and with him after the manner of an apprentice to dwell, and him to serve, from the &c. unto the full end and term of _____ years, from thence next ensuing, and fully to be complete and ended; during which term the said apprentice his said master faithfully shall serve, his secrets keep, his lawful commands every where gladly do; he shall not do, or willingly suffer to be done, any damage to his said master, in his goods, estate, or otherwise; he shall not absent himself from the service or business of his said master unlawfully, but in all things as a faithful servant, or apprentice, he shall behave or demean himself towards his said master, and all his during the said term; And the said master (in consideration of the sum of _____, of lawful, &c., to him in hand, at or before sealing hereof, well and truly paid, the receipt whereof he doth hereby acknowledge, being the money agreed to be paid, and given with his said apprentice,) shall and will teach and instruct, or cause the said apprentice to be taught and instructed in the said art of a _____, which he now useth, by the best ways and means that he can; and shall and will also find and provide unto and for his said apprentice, meat, drink, apparel, washing, lodging, and all other necessaries during the said term (wearing apparel excepted); and for the true performance of all the said covenants and agreements herein contained, each of the said parties bindeth himself unto the other of them firmly by those presents.

In witness, &c.

INDENTURE OF APPRENTICESHIP WHEREIN THE FATHER IS CONCERNED.

This indenture witnesseth, that A., son of B., of, &c., now dwelling with C., of _____, in, &c., with the consent and agreement of his said father, testified by his signing and sealing these presents, is bound, and doth bind himself apprentice unto the said C. after the manner of an apprentice, to serve him, the said C., at _____ aforesaid, for the term of _____ years, from, &c., to be accounted, and fully to be complete and ended; during which term, the said apprentice or servant shall and will faithfully serve and be just and true to his said master in all things whatsoever, and keep his secrets, and obey all lawful commands of his said master, and demean himself faithfully towards his said master; he shall not do, or willingly suffer to be done by others, any hurt or damage to his said master, but the same to the extent of his power shall binder, or his said master thereof shall forthwith acquaint; he shall not absent himself from his said service day and night unlawfully, but in all things as a good and faithful apprentice he shall bear and behave himself towards his said master, and all his, during the said term. And the said C. (in consideration of _____ of lawful, &c., paid by the said B. with his said son to D., of, &c., for the use of the said C.) doth hereby agree, to and with the said B. and A. and either of them, that he, the said C., his said apprentice shall and will instruct and teach, or cause to be instructed and taught, in the business of a _____, which he now useth, and shall and will find and provide unto and for his said apprentice, meat and sufficient diet, lodging, washing, and other necessaries, during the said term (wearing apparel excepted); and for the true performance (*conclude as in last form*).

In witness, &c.

A LETTER OF ATTORNEY TO RECEIVE A LEGACY.

To all, &c., M. G., &c., sendeth greeting. Whereas A. K., late of _____, by her last will and testament, bearing date _____, did give and bequeath unto me, the said M. G., the sum of _____, to be paid unto me upon my sealing and delivering a general release to the executors of the said A. K., and made and constituted J. B., of _____, her executor, and shortly after died. And whereas the said J. B. hath proved the said will, and I, the said M. G., have sealed such general release to the said J. B., as by the said will is described, and left the same in the hands of her attorneyes hereinafter named, to be delivered to the said J. B. on payment of the said sum: Now know ye, that I, the said M. G., have constituted, &c., and by these presents do, &c., J. R., &c., to

be, &c., for me, &c., to ask, &c., of and from the said J. B. the said legacy of, &c., so given and bequeathed to me as aforesaid; and upon receipt, &c. In witness, &c.

A GENERAL LETTER OF ATTORNEY TO RECEIVE DEBTS.

Know all men by these presents, that I, A. B., &c., have made, constituted, and appointed, and by these presents do make, &c., C. D., &c., my true and lawful attorney, for me and in my name, and to my use, to ask, demand, sue for, recover and receive of E. E., (or, of and from all and every person and persons whatsoever, whom it doth, shall, or may concern,) &c., all and every such sum and sums of money, debts, and demands whatsoever, as now are due and owing unto me, the said A. B., by and from the said E. E.: And in default of payment thereof, to have, use, and take all lawful ways and means, in my name or otherwise, for the recovery thereof, by attachment, arrest or otherwise, and to compound and agree for the same: And on receipt thereof, acquittances, or other sufficient discharges for the same, for me and in my name, to make, seal, and deliver: And to do all lawful acts and things whatsoever concerning the premises, as fully, in every respect, as I myself might or could do, if I were personally present; and an attorney or attorneys under him, for the purposes aforesaid, to make, and at his pleasure to revoke; hereby ratifying, allowing, and confirming all and whatsoever my said attorney shall, in my name, lawfully do or cause to be done in and about the premises.

In witness, &c.

NOTE.—If there are two attorneys, say—"B., &c., and C., &c., jointly, and either of them severally, to be my true and lawful attorney and attorneys, for me, &c."

A LETTER OF ATTORNEY TO TWO PERSONS, BUT IN CASE OF THE DEATH, ABSENCE, OR REFUSAL OF BOTH, OR EITHER OF THEM, THEN TO ANOTHER ALONE, OR WITH EITHER OF THEM THAT WILL ACT.

— D. and E. jointly, and either of them severally, our true and lawful attorney and attorneys; and in case of the decease or absence of the said D. and E., or either of them, or the refusal of them, or either of them, to act as our attorneys by virtue hereof, then we make, &c., F. alone, or together with him or them, the said D. and E., who shall be living and present there, and will act as our attorney by virtue of these presents, jointly, or either of them severally, our true &c. attorney and attorneys, &c.

A LETTER OF ATTORNEY TO SELL LANDS.

Know all men by these presents, that I, A. B., of S. in the county of E., Esquire, have made, constituted and appointed, and do by these presents make, &c., C. D., of B., in the county of S., merchant, to be my sufficient and lawful attorney, for me and in my name, to bargain, sell, grant, release and convey, to such person or persons, and for such sum or sums of money (*or, and for such consideration or considerations,*) as to my said attorney shall seem most for my advantage and profit, all that parcel of land, &c., (*here describe the estate,*) and upon such such sale or sales, convenient and proper deeds, with such covenant or covenants, general or special, of warranty, release, or otherwise, as to my said attorney shall seem expedient, in due form of law, as my deed or deeds, to make, seal, deliver, and acknowledge, and for me, and in my name, to accept and receive, all and every the sum and sums of money (*or, other consideration or considerations whatsoever,*) which shall be coming to me on account of the said sale or sales, and upon the receipt thereof, suitable acquittance or acquittances, in my name and stead, to make, seal and deliver; and generally giving to my said attorney full power and authority, touching the premises, to do, execute, proceed, and finish, in all things, in as ample a manner as I might do if personally present. Hereby ratifying and confirming all lawful acts done by my said attorney by virtue hereof. In witness, &c. (*See Form of Acknowledgement, post p. 48.*)

NOTE.—This should be acknowledged and recorded in the county where the land lies.

LETTER OF ATTORNEY TO SELL A SHIP.

Know all men by these presents, that we, J. R. and J. W., of _____, are sole owners of the ship or vessel called _____, according to the proportions and shares specified in the certificate of registry hereunder written and set forth, whereof _____ is at present master, now lying in the harbour of _____, which said certificate of registry is in the words and figures following, that is to say:

(*Here follows a copy of the certificate of registry.*)

Now know ye, that we, the said J. R. and J. W., have made, ordained, constituted and appointed, and by these presents do, &c., A. L., of _____, our true and lawful attorney, for us and each of us, and in our and each of our names, and to and for our use and benefit, to sell or dispose of the said ship or vessel _____, together with all her masts, sails, yards, anchors, boats, cables, tackle, apparel, furniture and appointments whatsoever, to the

said ship or vessel belenging, and all our separate proportions and shares thereof, according to the certificate of registry as aforesaid, and all our and either of our right, title, interest, property, claim or demand whatsoever, theroin and thereto, at and for the best price and prices that can be had and gotten for the same, and thereupon to seal and execute a good and sufficient bill of sale, assignment, or other deeds and writings for perfecting and confirming the sale thereof, as by the Act and Acts of Parliament, and the laws of Great Britain, and as by counsel learned in the law shall be deemed requisite and necessary for transferring a good and complete legal title of, in, and to the premises, and every part and parcel thereof, with the appointments, and upon receipt of the money which the said premises shall be sold for, to give sufficient legal receipts and discharges for the same, and to do all other matters and things in and about the premises as fully and absolutely as we ourselves, or either of us might do, or could perform, if we were ourselves personally present, and an attorney or attorneys under him, for the purpose aforesaid, to make, and at his pleasure to revoke and nullify. Hereby ratifying, allowing, and confirming, all and whatsoever our said attorney, or his substitute or substitutes, shall do or cause to be done in our names, in and about the premises, by virtue of these presents.

In witness, &c.
(Add Notarial Seal and Certificate.)

A shorter form.

Know, &c., that I, A, &c., have made and ordained, and by, &c., B, &c., now commander of the ship M., to bo my true, certain and lawful attorney for me, and on my behalf, to grant, sell, and disposo of *my sixteenth* part of and in all that the said ship or vessel called the M., of the burthen _____, (*here state the date of the certificate of registry, the tonnage, &c., of the vessel, so that she may be easily identified with the description.*) and of all the appurtenances to the said ship belonging, at and after the rate or price of £____ for one-sixteenth part, or such a rate or price as he can get for the same ; and to seal and execute a sufficient bill or bills of sale thereof, for me and on my behalff ; and upon receipt of the money or consideration for such bill or bills of sale, to give receipts for the same. And I do hereby ratify and confirm, &c. And I do hereby covenant and agree for myself, my, &c., to and with, &c., that I will, upon request, do any further reasonable act for confirming the said sale or sales as shall be required.

In witness, &c.

A SHORT MORTGAGE OF GOODS.

Know all men by these presents, that I, A. B., of _____, gentleman, in consideration of the sum of _____, to me paid by C. D., of _____, Esquire, the receipt, &c., have granted, bargained and sold, and by these presents do grant, &c., unto the said C. D., all the goods and chattels, wares, effects, and merchandise, mentioned and specified in the schedule hereunder written: To have and to hold all and singular the said, &c., unto the said C. D., his executors, administrators and assigns for ever. Provided, nevertheless, that if I, the said A. B., my executors, administrators, or assigns, or any of them, do and shall well and truly pay, or cause to be paid, unto the said C. D., his executors, &c., the sum of —, with legal interest for the same, on or before the — day of —, then these presents, and every clause, article, and thing herein contained, shall cease and be void. Otherwise, to remain in full force and virtue. In witness whereof, I, the said A. B., hereunto set my hand, this — day of —, 184—. (See post p. 50.)

Signed and delivered in } A. B.
presence of }

For the following short form the author is indebted to an intelligent Merchant of the City of Saint John. It has been frequently used by Merchants and Ship-Builders, and is remarkable for its comprehensive brevity.

AGREEMENT TO BUILD A SHIP.

Agreement made and entered into this — day of —, between _____, of the City of Saint John, merchant, on the one part, and _____, of _____, ship-builder, on the other part— Witnesseth, that the said _____, for and in consideration of the payments hereinafter mentioned, to be made by the said _____, doth hereby agree to build, launch, and deliver in the harbour of Saint John, at Carleton, in safety, a vessel of the following dimensions, viz.: sixty feet of keel, nineteen feet beam extreme, and nine and one-half feet hold, iron fastened, in accordance with a model furnished by said _____, and the said _____ doth bind himself to build and finish the said vessel in hull, masts, yards and spars complete, inboard and outboard, including all caulking, iron-work, blacksmith's work, plumber's work, painting, pumps, head set, and all other work to and in top of rail, even to a cleat, as fully and effectually as if it was more particularly specified, it being fully understood and agreed upon that no extra bills are to be brought against said vessel, the work to be completed and finished

in a thorough workmanlike manner, to the satisfaction of the said _____, or the person sent by him to superintend the same.

The vessel to be launched and delivered on or before the _____ day of _____ next ensuing, and the said _____, for and in consideration of the just and true performance of the above, promises to pay to the said _____, at and after the rate of Five Pounds per ton, old register admeasurement, for every ton the said vessel may register, according to the dimensions herein specified, and said payment to be made as follows, one-half in cash, payable by installments weekly as the work progresses, one quarter in iron or goods, such as provisions and merchandise, and balance in notes of hand at three months, when the vessel is launched and completed, and certificate of builder handed over.

And the undersigned do bind themselves in the penal sum of Two Hundred Pounds, lawful money of New Brunswick, for the due performance of this obligation. Dated in Saint John, New Brunswick, this _____ day of _____, one thousand, &c.

Signed, sealed, and delivered, } [L. S.]
in presence of _____ [L. S.]

A BOND, WITH A CONDITION, TO CONVEY AN ESTATE AT A TIME TO COME, FREE FROM INCUMBRANCE.

(For form of obligatory part, see Arbitration Bond, ante p. 32.)

The condition of this obligation is such, that if the above-bounden A. B. do and shall, upon the request of the said C. D., his heirs or assigns, on or before the _____ day of _____, which will be in the year of our Lord one thousand eight hundred and _____, convey and assure, or well and sufficiently cause to be conveyed and assured, unto the said C. D., his heirs and assigns, as the said C. D., shall nominate and appoint, and to such uses as he shall direct, the following described premises, to wit: (*here particularly describe the premises to be conveyed,*) by such conveyances and assurances in the law, as by the said C. D., or his heirs or assigns, or his or their counsel, learned in the law, shall be reasonably devised or advised, and required, freed and discharged, of and from all incumbrances whatsoever, except &c. (*here insert the incumbrances, if any, from which the premises are not to be freed*).— Then the above obligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed, and delivered, } [L. S.]
in presence of _____

DEED OF WARRANTY, WITH FORM OF ACKNOWLEDGEMENT.

Know all men by these presents, that I, A. B., of ——, in the county of ——, Esquire, and —— my wife, for and in consideration of the sum of —— pounds of lawful money of New Brunswick, to me in hand well and truly paid, at or before the ensealing and delivering of these presents, by C. D., of —— aforesaid, in the county aforesaid, Esquire, the receipt whereof I do hereby acknowledge, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said C. D., his heirs and assigns, all and singular the following described premises, to wit: (*here particularly describe the premises conveyed, if possible by metes and boundaries,*) and also all dower, right and title of dower, interest, property claim, and demand whatsoever, of, in, to and one of the above described premises, with the appurtenances. To have and to hold the above bargained and sold premises, with the appurtenances, to the said C. D., his heirs and assigns, and to his and their only use, benefit and behoof for ever. And I, the said A. B., do for myself, my, and each and every of my, heirs, executors and administrators, covenant with the said C. D., his, and each and every of his, heirs and assigns, that I am seized of the premises as a good indefeasible estate of inheritance in fee simple, free of and from all manner of incumbrances whatsoever, (rents, dues, conditions, reservations, and services, due and reserved to the Queen, only excepted) and that I have a good right, full power, and lawful authority to grant, bargain, and sell the same, in manner and form as above written. In witness whereof, I, the said A. B., and ——, my wife, have hereunto set our hands and seals this — day of —, in the year of our Lord one thousand, &c.

Signed, sealed, and delivered, }
in presence of ——.

A. B. [L. S.]
— [L. S.]

Form of Acknowledgement.

— ss. Be it remembered, that on the day and year before written, personally appeared before me, ——, Esquire, one of Her Majesty's Justices of the Peace in and for the county aforesaid, the before named A. B. and ——, his wife, who acknowledge that they executed the above deed freely and voluntarily for the uses and purposes therein named, and the said —— being examined by me separate and apart from her said husband, acknowledged that she executed the same freely and voluntarily, and without fear or dread of her said husband or of his displeasure. ——.

MORTGAGE OF PERSONAL PROPERTY.

Know all men by these presents, that _____, of _____, in the county of _____, and Province of New Brunswick, _____ for and in consideration of the sum of _____, now due and owing from me to _____, of _____, aforesaid, in the county and province aforesaid, —and for the better securing the payment thereof to the said —, and also in consideration of the further sum of _____ to me in hand paid by the said —, at or before the sealing and delivery of these presents, the receipt whereof I do hereby acknowledge, have bargained, sold, released, granted and confirmed, and by these presents do bargain, sell, release, grant and confirm, unto the said _____, all the goods, household stuff, and implements of household stuff, and all other goods and chattels whatsoever mentioned in the schedule hereunto annexed, now remaining and being in my possession. To have and to hold all and singular the said goods, household stuff, and implements of household stuff, and every of them, by these presents bargained, sold, released, granted and confirmed, unto the said _____, to the only proper use and behoof of the said _____, his executors, administrators and assigns forever. And I, the said _____, for myself, my executors and administrators, all and singular the said premises hereby conveyed unto the said _____, his executors, administrators and assigns, and against all and every other person or persons whatsoever, shall and will warrant and forever defend by these presents. Provided always, and it is hereby agreed between the said parties to these presents, that if I, the said —, my executors, administrators and assigns, or any of us, do and shall well and truly pay, or cause to be paid, unto the said —, or to his attorney, executors, administrators or assigns, the said sum of _____, with lawful interest, on or before the — day of —, which will be in the year of our Lord one thousand eight hundred and —, for the redemption of the said hereby bargained premises, then these presents, and every clause, article, condition or thing herein contained, shall cease, determine, and become utterly void, otherwise to remain in full force and virtue.

In witness whereof, I have hereunto set my hand and seal, this — day of —, in the year of our Lord one thousand eight hundred and —.

— — —, [I. S.]

Signed, sealed, and delivered, }
in the presence of —. }

(For a shorter form, and where the property is of little value, and where expedition is required, see ante p. 46. Describe the property as in the next page.)

Schedule referred to in the annexed Mortgage.

1 Sofa,	. . . . .	£5	10	0
1 Chest of Drawers.	. . . . .	4	5	0
12 Chairs a 6s.	. . . . .	3	12	0
1 Clock,	. . . . .	7	10	0
1 Escritoire,	. . . . .	10	0	0
2 Card Tables,	. . . . .	8	10	0
		<hr/>		
		£39	7	0

(The mortgagor signs his name here.)

For a few legal principles as applicable to the use of this precedent, see ante pp. 22, 23.

LEASES.

LAW SUMMARY.

By the Provincial Act, 26 Geo. 3. cap. 3. leases should be acknowledged and recorded, provided the term is not beyond three years, and when the actual possession and occupation goeth along with the lease.—Sec. 18.

A lease for years may be delivered by an attorney by parole. 1 Co. Lit. 348, b. Note 213. A lessee, before entry, has no estate, and therefore cannot receive a confirmation, or release, from the lessor, nor can he surrender, except by a surrender in law. 2 Bl. Com. 324. Watk. Conv. 11. Yet if a lease be made to two, one may release to the other before entry. Watk. Conv. 12.

But a lessee before entry has an *interesse termini* which he may assign, and such assignee will have a right of entry, as the lessee had. Bac. Abr. Leases.

So if one make a lease for years, to commence after the death of tenant for life, or after the expiration of a lease for years then in being, and after the death of tenant for life, for the expiration of the term of years, a stranger enters by *tort*, yet the lessee of the future interest may grant over his term, before or without entry, and such grantee will have a right of entry. But if the lessee had once entered after the death of tenant for life, &c., and had after been put out, then he could not. Bac. Abr. Leases, 195.—Bruerton's v. Rainsford, Cro. Eliz. 15. Saffin's case, 5 Co. 124.

After entry the lessee may assign, underlet, surrender or devise it, or he may limit it by way of trust to one for life, and after his decease to another, or he may receive a release of the reversion from the lessor. Watk. on Conv. 13, 14.

A lease made by a father as natural guardian is void. 2 Mass. R. 55.

If a husband makes a lease of his wife's lands, and dies, she may affirm or avoid the lease, as she finds most for her interest. But if she accepts rent which has become due after the husband's decease, the lease is thereby become unavoidable. Bac. Abr. Leases, C.

If a tenant in dower, or by the courtesy, make a lease for years, reserving rent, and die, this lease is absolutely determined, so that no acceptance of the rent by the heir, or those in reversion, can

make it good, and the tenant is merely tenant by sufferance, by his continuance of possession. Bac. Abr. Leases, 1.

Tenant for life can make no leases to continue longer than his own life; they are merely void after his death, and cannot be set up against the remainder man, by his acceptance of rent. Bac. Abr. 126. Upon a determination of such lease, by the death of tenant for life, the rent must be apportioned; so of a lease at will made by tenant for life. Max. in Conv. 49. If disseisor makes a lease for years, and the disseisee confirms it, and after re-enters, yet he shall not avoid the lease. Co. Lit. 300. Bac. Abr. 129.

The heir, after the death of his ancestor, before any actual entry, may make a lease for years, because the possession was cast upon him immediately, by the death of his ancestor, and none had possession in fact. But if a stranger first enter by abatement, then such lease, made by him after, will be void. Bac. Abr. 130.

If two joint tenants are in fee, and one makes a lease for years, to begin after his death, this is good, and shall bind the other if he survives. Co. Lit. 163. Bac. Abr. 131. But a devise for years, in such manner would be void. *Ib.*

If two joint tenants for life are, and one makes a lease for years of his moiety, either to begin presently or after his death, and dies, this lease shall bind the survivor, and such lease shall hold out the surviving joint tenant and reversioner. *Ib.* 3 Bac. Abr. 695, 696. Whitlock v. Horton, Cro. Jac. 91.

A joint tenant, or tenant in common, may make a lease for years of his part to his companion. Co. Lit. 186, A.

When the lessee holds over after the determination of the lease, the sureties are no longer held. But if the tenant afterwards pays money on account generally, the lessor may apply it to the rent growing due after the expiration of the lease, so as to hold the sureties for former arrearages, if any, before the expiration of the lease. Brewer v. Knapp, 1 Pick. 332.

A. leases a Marble Quarry on his land to B.: he afterwards conveys the land, "reserving the use of the Quarry until the expiration of the lease." A. and B. cancel the lease, yet the reservation continues in force until the expiration of the term of years. Farnum v. Platt, 8 Pick. 339.

LEASES.

USUAL FORM OF A LEASE (ABRIDGED).

This indenture, made this — day of —, between A. B., of —, gentleman, and C. D., of —, trader, witnesseth: that the said A. B. doth hereby demise and lease unto the said C. D. all that, &c., (*describe the premises,*) to hold for the term of — years from the date hereof; yielding and paying therefor yearly on every — day of —, during the said term, unto the said A. B., or his assigns, the yearly rent of —, (*or thus,* yielding and paying therefor, during the said term, the yearly rent of —, in two equal semi-annual payments; *or thus,* yielding and paying therefrom, during the said term, the yearly rent of — pounds, in four equal payments, quarterly.)

And the said C. D. covenants to pay the said rent in manner aforesaid, and to deliver up the premises to the said A. B., or his attorney, peaceably and quietly, at the end of the said term, in as good condition as the same now are, or may be put into by the said A. B., reasonable use, and wear and tear thereof, and fire and other casualty excepted; and to pay all taxes and duties lawfully levied and imposed on the premises demised, during the said term; and the said lessee further covenants, that he will not do, or suffer any waste in the demised premises; that he will not underlet the same, or any part thereof, nor permit any other person or persons to occupy the same, or any part thereof, nor make, or suffer to be made, any alteration therein, without the consent of the said C. D., or his assigns, for that purpose in writing first had and obtained; and the said lessee further covenants that the said A. B., or his attorney or agent, may enter the premises, for the purposes of viewing or making improvements, at reasonable times in the day-time. (*Other clauses may be inserted according to circumstances. See the following forms.*)

A LEASE OF GOODS, AND HOUSEHOLD FURNITURE.

This indenture, of two parts, made this — day of —, between A. B., of —, merchant, and C. D., of —, merchant, witnesseth: that the said A. B., in consideration of the covenants hereinafter contained, on the part of the said C. D. to be per-

formed, hath demised and leased to the said C. D., and his assigns, all the goods and household furniture, contained in the schedule hereunto annexed, to hold to the said C. D., and his assigns, from the date hereof, for the full term of three years: yielding and paying therefor the annual rent of —, in four equal quarterly payments, viz: on the — day of —, on the — day of —, on the — day of —, and on the — day of —, in every year during the said term. And the said A. B. covenants, that the said C. D., or his assigns, shall quietly hold and enjoy the leased premises, without the lawful hindrance of any person or persons whatsoever. And the said C. D. covenants, that he will pay the rent aforesaid in manner aforesaid, during the said term: that he will not assign this lease, or underlet the said goods, or any part thereof, without the written consent of the said A. B.; that he will replace, at his own expense, any of the said goods which may be casually lost or injured, during the said term, and at the expiration of the said term, or other sooner determination of this lease, will restore the said goods and household furniture to the said A. B., or his assigns, in the like good order and condition, as they now are, wear and tear arising from a reasonable use of the same, and loss from the casualty of fire, alone excepted.

In witness, &c.

The following proviso may be inserted at discretion.

Proviso, for determining the lease at the option of the lessor.

Provided always nevertheless, that if the said A. B., or his assigns, shall at any time during the said term, tender to the said C. D., or his assigns, one shilling—with an intent to determine this lease, then this lease shall wholly cease and determine from the time of such tender, in like manner to all intents and purposes whatsoever, as if the said term of three years was fully complete and ended; and the said rent shall be so apportioned, that the said C. D., or his assigns, shall pay, and the said A. B., or his assigns, shall receive, after the rate of — per annum, for the use of the goods and household furniture aforesaid, during the time that they shall be used or retained by the said C. D., in his possession by virtue hereof.

A — DAY LEASE, BY WAY OF MEMORANDUM.

Memorandum, that K. D., Esquire, leased to R. S. the messuage or tenement in — street, in —, in which the said K. D. lately dwelt, to hold for one whole year, from — next ensuing,

and so from year to year; yelding and paying yearly and every year, unto the said K. D., the sum of _____, by four even and equal payments, the first payment to be made on, &c., the second payment, &c., &c., in every year. And the said K. D. did agree to repair the premises, other than the glass windows thereof, and pales before the door; and the said R. S. did agree to repair the windows during the term; and the said K. D. did agree, that R. S. might retain the first quarter's rent, laying it out in painting the outside of the said house, and the overplus (if any) otherwise in and about the said house: And further, that the said R. S. might enter at any time before midsummer. Provided, that if either of the said parties, their executors or administrators, should be minded to determine the said lease, and thereof should leave and give notice in writing to the other, his executors or administrators, one quarter of a year before the end of any year, then, from the end of the same year, the said lease should determine and be void. In witness, &c.

A LEASE FOR YEARS OF A HOUSE AND LANDS IN THE COUNTRY, WITH EXCEPTIONS AND SPECIAL COVENANTS, &c.

This indenture, made, &c., between N. N., of the one part, and O. O. of the other part, witnesseth, that for and in consideration of the rents, covenants, provisos and agreements, hereinafter reserved and contained, and which, on the part of the said O. O., his executors, administrators and assigns, are to be paid, done, and performed, he, the said N. N., hath leased, set, and to farm letten, and by these presents doth lease, set, and to farm let, unto the said O. O., his executors, administrators and assigns, all that messuage, tenement, or farm-house, late in the possession of R. O., with the appurtenances, situate in _____, together with all and singular the yards, gardens, orchards, premises, barns, stables, out-houses, edifices and buildings, thereunto belonging, and also all those several closes, pieces or parcels of arable land, meadow, pasture, wood, and wood ground, containing by estimation _____ acres, (be this more or less,) lying and being in _____ to the said messuage, tenement, or farm-house belonging, and therewith held, used, occupied and enjoyed, as part and parcel thereof.

(Exception of Timber, &c.)

Except and always reserved, out of this present lease unto the said N. N., his heirs and assigns, all timber and timber-like trees, and all other trees whatsoever, but the fruit trees for their fruit only, and the pollard trees for their lops and tops only, which now

are, or at any time or times hereafter shall be, standing, growing, and being in, upon and about the said leased premises, or any part thereof, with free liberty of ingress, egress, and regress, to and for the said N. N., his heirs and assigns, servants and workmen, from time to time, and at all times during the term hereby leased, the same to fell, stock up, cut down, hew, and carry away, in and through the said leased premises, or any part thereof, (doing no wilful hurt or damage to the grain and grass of the said O. O., his executors, administrators and assigns,) at all times during the term hereby leased, and free liberty to enter into and upon the said premises, and every part thereof, to view the condition of the repairs thereof.

(Habendum and reddendum.)

— to have and to hold the said messuage, tenement or farm-house, closes, pieces or parcels of land, meadow, pasture ground and premises, with their and every of their appurtenances, (except as before excepted,) until the said O. O., his executors, administrators and assigns, from the day of the date hereof, for and during, and unto the full end and term of — years next ensuing, and fully to be complete and ended; yielding and paying therefor yearly, and every year during the said term, unto the said N. N., his heirs or assigns, the yearly rent or sum of —, on the first day of —, in every year during the said term.

(A Covenant to repair, the lessor finding materials.)

Also that he, the said O. O., his executors, and administrators, and assigns, shall and will, at his and their own proper costs and charges, well and sufficiently repair, maintain, amend, scour, cleanse, preserve, and keep in repair, the said messuage, tenement or farm-house, and all other the houses, out-houses, edifices, buildings, barns, stables, gates, rails, pales, stiles, hedges, fences, and mounds belonging to the said hereby leased premises, he, the said N. N., his heirs and assigns, upon notice and request to them made, finding and allowing on the said premises, or within four miles thereof, all rough timber, brick, lime, tiles, and all other materials whatsoever (except straw) for the doing thereof, to be carried to the said hereby leased premises, at the charge of the said O. O., his executors, administrators or assigns.

(A Covenant to quit possession at the end of the term.)

And the said premises so prepared, amended, and kept in repair, as aforesaid, at the end, expiration, or other sooner determination of this present lease, shall and will yield up unto the said N. N., his heirs or assigns.

(Lessee covenants to pay Taxes.)

And that he, the said O. O., his executors, administrators and assigns, shall and will, at all times during the said term of years hereby leased, bear, pay, and discharge all such taxes, levies and assessments, as shall be taxed, levied, rated or assessed upon the said hereby leased premises, the land tax only excepted.

(Lessor covenants to find materials for repairs, &c.)

And the said N. N. doth hereby, for himself, &c., covenant, &c., to and with the said O. O., his executors, &c., in manner following, viz.: that he, the said N. N., his heirs and assigns, shall and will, from time to time, and at all times during this present lease, at reasonable time for cutting timber, find, provide for, and allow unto the said O. O. his, &c., on the said premises hereby leased, or within four miles distant therefrom, necessary rough timber, brick, lime, and tiles, and all other materials whatsoever for the repairing and amending thereof, (except straw,) within forty days after notice of the want thereof, and demand of the same, made by the said O. O., his, &c.—the said materials to be carried to the said leased premises at the expense of the said O. O., his, &c.

(Covenant for quiet enjoyment.)

And lastly, that it shall and may be lawful to and for the said O. O., his, &c., (paying the rents herein before mentioned and contained, and which, on his and their part and behalf, are, or ought to be paid, done and performed,) peaceably and quietly to have, hold, use, occupy, possess, and enjoy all and singular the said hereby leased premises, with the appurtenances, during the said term of —— years hereby demised, without any molestation whatsoever, of or by him, the said N. N., his heirs or assigns, or of, or by any other person or persons, lawfully or equitably claiming, or to claim, by, from, or under him, them, or any of them.

In witness, &c.

A BUILDING LEASE, WITH VARIOUS SPECIAL CLAUSES.

This indenture, made, &c., between N. O. of ——, of the one part, and P. Q., of ——, of the other part, witnesseth, that the said N. O., for and in consideration of the rents, covenants and agreements, hereinafter reserved and contained, by, and on the part and behalf of the said P. Q., his, &c., to be paid, done, and performed, hath demised, leased, and to farm let, and by

these presents, doth, &c., unto the said P. Q., his, &c., all that piece or parcel of ground, situate, lying, and being on —, in —, containing in breadth on the north side thereof —, and in depth on the east side thereof —, be the same more or less, together with the messuages or tenements, and other the erections and buildings thereon, which the said P. Q. shall have full liberty to pull down, and to take to and for his own use, which said piece or parcel of ground abuts north on, &c., aforesaid; east, &c., and is more fully delineated and described in the plan or ground plot thereof, in the margin of these presents, together with all erections and buildings to be erected and built thereon, and all ways, paths, passages, drains, waters, water-courses, easements, profits, commodities and appurtenances whatsoever, belonging, and which shall belong, to the said hereby demised premises, or any part or parcel thereof: To have and to hold the said piece or parcel of ground, messuages or tenements, erections, buildings, and premises hereby demised, or intended so to be, unto the said P. Q., his, &c., from the — day of —, last past, before the date hereof, for and during, and until the full end and term of — years, from thence next ensuing, and fully to be complete and ended; yielding and paying thereto, yearly, and every year, for and during the said term hereby demised, unto the said N. O. his heirs and assigns, the yearly rent or sum of —, by half yearly payments, on the — day of — and the — day of — in each year, by even and equal portions, the first payment thereof to begin and be made on —; the said several rents to be paid and payable, from time to time during the said term, free and clear of all rates, charges, assessments, and payments whatsoever, taxed, charged, assessed or imposed, upon the said hereby demised premises, or any part thereof, in any wise whatsoever, during the continuance of the said term hereby granted.

(Lessee covenants to pay the rent, without any abatement for taxes, &c.)

And the said P. Q., for himself, his heirs, executors, administrators and assigns, doth covenant, &c., to and with the said N. O., his heirs and assigns, by these presents, in manner following, that is to say: that he, the said P. Q., his heirs, executors, administrators and assigns, shall and will, yearly and every year, during the said term hereby granted, well and truly pay, or cause to be paid, unto the said N. O., his heirs and assigns, the said yearly rent or sum of —, on the several days and times, and in manner hereinafter limited and appointed for payment thereof, without making any deduction or abatement thereout, for or in respect of any rates, taxes, assessments, duties, charges, or impositions whatsoever, taxed, charged, assessed or imposed, or to be charged,

assessed, or imposed upon the said hereby demised premises, or any part thereof, during the said term hereby granted; all which rates, taxes, assessments, duties, charges or impositions, he, the said P. Q., his executors, administrators or assigns, shall and will bear, pay, and discharge, and thereof and therefrom, acquit, save harmless, and keep indemnified, the said N. O., his heirs and assigns.

(Lessee covenants to build one or more brick buildings, &c.)

And that he, the said P. Q., his executors, administrators, or assigns, shall and will, before the expiration of the first year of the said term hereby granted, at his and their own proper costs and charges, erect, build, complete, and in a workmanlike manner finish, one or more good and substantial brick messuages or tenements, upon some part of the ground hereby demised, and shall and will lay out and expend therein, the sum of — or upwards; and also that he, the said P. Q., his executors, &c., shall and will, from time to time, and at all times, from and after the said messuages or tenements, erections and buildings on the said piece of ground hereby demised, shall be respectively completed and finished, during the remainder of the said term hereby granted, when, where, and as often as need or occasion shall be and require, at his and their own proper costs and charges, well and sufficiently repair, uphold, support, maintain, pave, purge, scour, cleanse, empty, amend, and keep the said messuage or tenement, messuages or tenements, erections and buildings, and all the walls, rails, lights, pavements, grates, privies, sinks, drains, and water-courses, thereunto belonging, and which shall belong to the same, in, by, and with all, and all manner of needful and necessary reparations, cleansings and amendments whatsoever.

(Lessee covenants not to carry on any offensive trade.)

And that he, the said P. Q., &c., shall not, nor will, during the said term hereby granted, permit or suffer any person or persons to use, exercise, or carry on in and by the said hereby demised premises, or any part thereof, any trade or business which may be nauseous or offensive, or grow to the annoyance, prejudice or disturbance of any of the other tenements of the said N. O., near adjoining thereto.

(Lessee covenants to yield up quietly at the end of the term, &c.)

And the said messuage or tenement, messuages or tenements, erections, buildings, and premises, with the walls, pavements, sewers and drains belonging thereto, being in every respect so

well and sufficiently repaired, upheld, supported, sustained, maintained, paved, purged, scoured, cleansed, emptied, amended, and kept, the said P. Q., or his, &c., shall and will, at the expiration or other sooner determination of the said term hereby granted, peaceably and quietly leave, surrender, and yield up unto the said N. O., his heirs and assigns, together with all doors, locks, keys, bolts, bars, wainscots, chimney pieces, slabs, foot-paces, windows, window shutters, partitions, dressers, shelves, pumps, water pipes, rails, and all other things which shall be in any wise fixed and fastened, and shall be standing, being, and set up, in and upon the said premises hereby demised, or any part thereof, within the last — years of the said term hereby granted.

(Lessee covenants to insure at his own expence.)

And that the said P. Q., his executors, &c., shall and will, at his and their own proper costs and charges, from time to time sufficiently insure all and every the messuages or tenements, erections and buildings, which shall be erected and built upon the said piece or parcel of ground hereby demised, or any part thereof, from casualties by fire during the then remainder of the said term hereby granted, in some one of the public offices kept for that purpose in —, and in case the said messuages or tenements, erections and buildings, or any of them, or any part of any of them, shall, at any time or times during the said term, be burnt down, destroyed, or damaged by fire, shall and will, from time to time, immediately afterwards, rebuild, or well and sufficiently repair, the same.

(Lessee covenants that lessor may enter to make an inventory, &c.)

And further, that it shall and may be lawful, to and for the said N. O., his heirs and assigns, or any of them, with workmen or others in his, their, or any of their, company, or without, to enter, or come into and upon the said demised premises, and every part thereof, at seasonable and convenient times, in the day time, as well at any time or times during the last — years of the said term hereby granted, to make an inventory or schedule of the several fixtures and things, then standing and being in and upon the said hereby demised premises, which are to be left at the end of the said term to and for the use of the said N. O., his heirs and assigns, pursuant to the covenant hereinbefore in that behalf contained, as also twice or oftener in every year, during the said term hereby granted, to view, search, and see the defects and want of reparations of the said premises, and of all defects and want of reparations which, upon every or any such view or search, shall be

from time to time found, to give or leave notice or warning thereof in writing, at or upon the said demised premises, unto and for the said P. Q., his executors, administrators and assigns, to repair and amend the same.

(Lessee covenants to repair.)

And that the said P. Q., his, &c., shall and will, within three months next after every such notice or warning shall be given or left, at his and their own proper costs and charges, well and sufficiently repair, amend and make good, all and every the defects and want of reparations, whereof such notice or warning shall be so given or left as aforesaid.

(Proviso empowering the lessor to re-enter, on non-payment of the rent, or non-performance of the covenants.)

Provided always nevertheless, and these presents are upon this condition, that if the yearly rent or sum of — hereby reserved, or any part thereof, shall be behind and unpaid, by the space of — days next after either of the said days of payment, whereon the same ought to be paid as aforesaid, (being lawfully demanded) or if the said P. Q., his executors, &c., shall not well and truly observe, perform, fulfil, and keep all and every the covenants, articles, clauses, conditions and agreements, in these presents expressed and contained, on his and their part and behalf to be performed and kept, according to the true intent and meaning thereof, then, and from thenceforth, in either of the said cases, it shall and may be lawful to and for the said N. O., his heirs and assigns, into and upon the said demised premises, or any part thereof, in the name of the whole, wholly to re-enter, and the same to have again, retain, re-possess, and enjoy, as in his and their first and former estate, and the said P. Q., his executors, administrators or assigns, and all other tenants and occupiers of the said premises, thereout and from thence, utterly to expel, put out, and move, and that, from and after such re-entry made, this present lease, and every clause, article and thing, herein contained, on the lessor's part and behalf, from thenceforth to be done and performed, shall cease, determine, and be utterly void, to all intents and purposes whatsoever; anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

In witness, &c.



By Command,

IMMIGRATION.

THE information embraced in the succeeding pages is copied from the Royal Gazette. By the Immigrant and the friend of immigration it will, no doubt, be found exceedingly useful for frequent reference; for this reason the author does not deem it necessary to apologise for presenting it in a more permanent form, than is afforded by the columns of a newspaper.

THE information contained in the following columns has been compiled from the answers received from the several Counties in New Brunswick to questions proposed by the Commissioners of Colonial Land and Emigration in London.

Emigration Societies having since been formed at Fredericton and Saint John, and others being in progress of formation throughout the Province, it has been considered that the publication of these details would assist their views, by diffusing authentic information for the guidance of persons who may be desirous of emigrating from Europe. It being in contemplation to promote the formation of new Settlements, in favorable situations, surveys of extensive tracts of Land, carefully selected, are in progress, of which due notice will be given; and it is hoped that persons possessing capital will be thus encouraged to unite their resources, in joint undertakings, by which they would derive the advantage of mutual support and co-operation, and be able, at an early period, to benefit from the public contributions in aid of the establishment of Schools and Bye Roads.

Besides the ready employment which offers to labouring Emigrants on their first arrival, both in town and country, the Public Works in progress will constitute a further resource to them, until possessed of the means of effecting a settlement on land. These works consist in the opening and improving of Roads and the construction of Bridges, for which large appropriations have been made.

The salubrity of the climate of New Brunswick, situated between the Latitudes of 44 and 48 degrees North, is well established, as well as its congeniality to the northern European. Among its natural advantages may be enumerated the valuable supply of Timber in its Forests, and the existence of extensive formations of Coal, Iron, and other Minerals.

The navigation of the Rivers and their tributaries in Summer, the formation of tracks on them during Winter, and the number of good Roads that have been constructed throughout the Province, afford great facilities of internal communication, and which will be further improved.

As it is desirable that the information published from time to time should comprehend all that would be useful as a guide to the European Emigrant, the Committees of the various local Associations are recommended to correspond on these subjects with the Committee of the Emigration Society in Fredericton, communicating such further details as may appear to them to be important.

Fredericton, New Brunswick, 1st June, 1841.

FOR INFORMATION OF EMIGRANTS WITH CAPITAL, INTENDING TO SETTLE ON LAND.

1. What is the smallest quantity of land which can be bought of the Government in the Colony?

Fifty acres; smaller tracts may be purchased, but the cost of such would be the same as for fifty acres, the expence of the Grant to Government being alike in both cases.

2. What is the upset price? and, if this varies, what is the average?

Generally 3s. Currency—(2s. 8d. Sterling,) but varies according to situation, &c.

3. What is the average price actually fetched by ordinary country lands?

From 5s. to 10s. Currency—(4s. 6d. to 9s. Sterling,) for un-cleared land near Settlements, according to situation, value, &c.

4. What is the average price of land partially cleared and fenced ?

This also depends upon situation and quality, varying from 10s. to £10 Currency—(9s. to £9 Sterling,) per acre.

5. Is it easy, and not expensive, to ascertain the validity of titles to private lands ?

Very easy and not expensive, as there are Register Offices in every County.

6. What is the cost per acre of clearing waste lands ready for the drag or harrow ?

Average £3 to £4 Currency, (£2 14s. to £3 12s. Sterling,) for cutting and clearing off the trees, leaving the stumps standing.

7. What kind of lands cost most in clearing ?

Swampy Lands.

8. Can a capitalist, on arrival, immediately see, by lists and charts in the office of the Crown Land Commissioner, or the Surveyor General, what lands already surveyed are open to sale ?

Yes—on application at the Crown Land Office in Fredericton.

9. If the lands applied for be not surveyed, can they be occupied first, and surveyed after ?

No, but reserved lands will be prepared for Emigrants.

10. Will the survey be commenced as soon as the land is applied for ?

Immediately on application.

11. How long after having chosen a lot amongst lands already surveyed, is a purchaser liable to be detained, before he can effect his purchase, and obtain possession of the land.

From a week to a month. *Measures are in progress to obviate this delay to the purchaser by surveying and laying out locations in favorable situations.*

12. Are there any rights in the land reserved to the Crown ?

Coal and precious Metals.

13. Are there established charges upon the land ?

None except the charges for surveying the land.

14. Should the settler take out all his property in money ? or would it be better to invest as much as he can spare in farming stock, &c., before leaving this country ?

Either British Gold and Silver or Spanish Dollars. Farming Stock can be purchased in the Province.

15. Is the great proportion of cleared land under tillage ?

Not easy to be determined. In many situations the greater portion is appropriated to the growing of Hay.

16. Are there parts in which grazing is chiefly used ; and, if so, name the districts, and the advantages for that pursuit ?

None where grazing is exclusively pursued ; after the Hay Harvest the cattle are turned upon the Meadow Lands.

17. What are the comparative gains of grazing and tillage ?

Cannot be stated, no comparison having been made.

18. What is the usual mode of letting ? and, if by leases, state the conditions, and for what terms of years ?

By lease for short terms, from three to five years, sometimes for money rent, but generally upon shares of half the produce.

19. What is the rate of profit on farming operations generally ?

No settled rate of profit. Farmers who perform the labor by their own families obtain a liberal profit, but if they hire labor the profit is small.

20. Are failures of crops common ?

Not more common than in other Countries.

21. What is the rate of interest for money lent on mortgage ?

Six per cent. is the legal interest.

22. What is the expence of erecting a suitable house for a small farmer ? and also of a barn, and stables for three horses ?

A comfortable frame-house, from £150 to £200, Currency—(£135 to £180, Sterling)—a frame barn, from £30 to £50 Currency—(£27 to £45 Sterling).

23. What are the usual rates of money wages to labourers, by the year, and by the month, or by the day.

Average, about £24, Currency—(21 12s. Sterling,) per annum, 40s. Currency—(36s. Sterling,) per month, with board. Day labourers, 3s. Currency—(2s. 8d. Sterling,) per day, without board, but in harvest, 4s. Currency—(3s. 7d. Sterling).

24. Are there any laws peculiar to the Colony, regulating contracts between masters and servants ?

None peculiar. Similar to the Laws of England.

25. What is the ordinary price of articles named in the annexed table ?

See Table. (Annexed.)

26. Are there places of education for the children of the middle classes.

There are numerous Elementary Schools in every Parish, and also a Grammar School in each County, towards the support of which the Legislature contributes liberally, and there is also a well endowed College at Fredericton, where a liberal education may be obtained at moderate expence.

27. What is the cost of the passage to any of the Ports in New Brunswick ?

Saint John, (New Brunswick) Miramichi and Saint Andrew's, are ports to which considerable numbers of Emigrants annually resort, there being great facilities from the number of vessels returning to the Province which are employed in the export of timber to Europe. Average cost of the passage £3 to £6 Currency—(£2 14s. to £5 Sterling.) Many Emigrants to the United States come out in ships bound to Saint John and Saint Andrew's, and it may be hoped that when the advantages of a settlement in

this Province are more generally known and appreciated, that many of them will be encouraged to remain.

28. Is it desirable to take out furniture, clothes, beyond those of immediate use, ironware, and saddlery of all kinds?

Only clothes and bedding, the other articles can be easily obtained in the Province.

TABLE OF PRICES OF AGRICULTURAL PRODUCE AND FARMING STOCK.

	CURRENCY.	STERLING.				
	£0	7	6	£0	6	9
Wheat, per bushel,	-	-	-	-	-	-
Barley,	-	-	-	-	0	4
do.	-	-	-	-	6	0
Rye,	-	-	-	-	0	4
do.	-	-	-	-	4	0
Oats,	-	-	-	-	0	4
Maize,	-	-	-	-	6	0
do.	-	-	-	-	0	2
Peas,	-	-	-	-	2	3
do.	-	-	-	-	0	4
Beans,	-	-	-	-	6	0
do.	-	-	-	-	0	4
Hay, per ton,	-	-	-	-	8	0
A good Cart Horse,	-	-	-	-	10	0
A serviceable Riding Horse,	-	-	-	-	25	0
A yoke of Oxen,	-	-	-	-	30	0
Sheep, or score,	-	-	-	-	55	0
A good Milk Cow,	-	-	-	-	15	0
A Breeding Sow,	-	-	-	-	7	0
Pigs, Suckling, 5s. Currency—4s. 6d. Sterling, Weaned, 10s. Currency—9s. Sterling, upwards,	-	-	-	-	6	0
A Cart, (of the description used by Farmers.)	-	-	-	-	10	0
do.	-	-	-	-	12	0
do.	-	-	-	-	10	15
A Waggon,	-	-	-	-	3	10
A Plough,	-	-	-	-	3	3
A Harrow,	-	-	-	-	2	0
	-	-	-	-	1	16

**FOR THE INFORMATION OF EMIGRANTS OF THE LABOUR-
ING CLASSES.**

1. Is it desirable for agricultural labourers to take with them any implements, either for their ordinary occupation, or for clearing land? and if so, what are they?

Not desirable, as the necessary implements can be readily procured in the Province.

2. Is it desirable for artizans to take with them the tools of their trade?

Desirable, but not absolutely necessary.

3. Should bedding be taken out from England exclusive of what is necessary for the voyage?

A moderate quantity, especially should the emigrant leave home late in the Season.

4. Should cooking utensils and crockery be taken out?

Not unless required for the voyage.

5. Should warm clothing be provided, or could it be procured more cheaply in the Province?

It had better be provided, as it cannot be procured so cheaply in the Province.

6. Is there any kind of constitution to which the climate may be considered peculiarly hurtful or unsuitable?

None, excepting to persons who have a tendency to pulmonary consumption.

7. What class of country labourers is most in demand?

Agricultural labourers.

8. Do the wives and children of agricultural labourers readily find employment?

They do, especially in seed time and harvest, but it is not generally the practice to employ them in field work.

9. What kind of mechanics and artizans are most in request?

There is an ample demand and good wages for almost every kind, but perhaps House Carpenters, Masons, Bricklayers, Blacksmiths, Shoemakers, and Tailors are most in request, and Ship-builders at the Sea Ports.

10. What is the best time of the year for labourers to arrive at New Brunswick?

The latter part of April and beginning of May.

11. Are domestic servants much in demand, and what are their wages?

Much in demand; wages for men 35s. to 45s. Currency—(31s. 6d. to 40s. 6d. Sterling,) per month; women 15s. to 20s. Currency—(13s. 6d. to 18s. Sterling,) with board, &c.

12. Is there a capitation tax on Emigrants, and what is the amount of it?

There is a tax upon the Masters of Vessels of 5s. Currency—(4s. 6*l.* Sterling,) for each adult, when the Ship is sanctioned to carry out Emigrants by Her Majesty's Government, and 10s. Currency—(9s. Sterling,) when not; two children under 14, or three under 7, or one under the age of 12 months, with its mother, being classed as one adult. (Vide Provincial Act, N. B. 2 W. c. 36.) This is probably included in the passage money paid by the Emigrants.

13. In what shape, and under what circumstances, is relief afforded to Emigrants out of the proceeds of this tax?

It is applied by Legislative grants towards relieving the destitute and diseased, and assisting them to reach their places of destination within the Province. (Vide W. 4, c. 36.)

14. Has every Emigrant to go to the quarantine station whether there has been infectious disease on board during the passage or not? If so, how long is he detained there, and at whose cost is he maintained?

The Vessel on its arrival is detained at the station about 48 hours for inspection, and when no infectious disease appears, is then permitted to enter and the Emigrant to land.

15. When the Emigrant lands from his voyage, does the Government Agent meet him and give him advice as to his future proceedings, and inform him where he is likely to obtain employment?

He can obtain the information he requires on application at the Office of the Emigrant Agent, and also from the Committees of Emigrant Societies.

16. At what places are these Government Agents, and what are their names?

Alexander Wedderburn at Saint John, and Edmund Ward, Assistant, at Fredericton; others will be appointed.

17. State the length and cost of the Journey, noting the difference for children, from the usual port of disembarkation to where the bulk of the Emigrants proceed; return the names of the chief intermediate stations, the time consumed in going from one to the other, and in making the whole journey; the means of conveyance, distinguishing each change from river to canal, from steam-boat to barge, or from water carriage to cart or stage coach; and the expence, pointing out the cases in which maintenance is included in the fare, or has to be paid for by the Emigrant, and estimating the charges of lodging and subsistence at those places where the travellers have to stop for a night, so that the sum total may exhibit the entire cost of the whole journey?

The expence of a journey from any of the Sea Port Towns in New Brunswick to the neighbouring settlement districts cannot exceed 20s. or 30s. Currency, (18s. to 27s. Sterling,) for one individual, and even should he go first to the seat of Government,

Fredericton, to select land, and then to the situation chosen, the actual travelling expence would not exceed from £2 to £5 Currency, (£1 16s. to £4 10s. Sterling); many, however, get immediate employment in the Sea Port Towns, and very many—some from having friends there, others in the hope of getting higher wages—go to the United States, which they can readily do at a trifling expence by sea. It is to be regretted, that Emigrants on their arrival demand the highest wages, though the generality of them are completely ignorant of the labour of the Country, and are thereby often kept out of employment. This may be attributed to the inducement of high wages on their arrival held out to them by Ship Captains, &c., to get the passage money, and by false friends in the Colony, who are desirous of keeping up the rate of wages, and who having become acquainted with the work required, thus obtain a monopoly.

18. When he leaves water carriage, as, for example, in Canada, the great line of the St. Lawrence, the Rideau, and the Lakes, what means are there for the transport of himself and his family to the place where his labour is required ?

New Brunswick is intersected by numerous rivers and rapidly improving roads, by which the settler can, with facility, transport himself and family to any part of the interior of the Province.

19. Is it customary to pay money-wages ? State the average wages of mechanics and labourers named in the annexed table. (No. 1.)

Generally speaking it is, but in some parts of the Colony a proportion is paid in clothing and provision, &c.,—a practice which it is desirable to discourage.

20. When the Public Works are in progress, are the wages generally at a higher or lower rate than those paid by farmers ?

Generally higher, as it increases the demand for labour.

21. If the public works are at a distance from the towns, does the Government provide lodging for the labourers ?

None have been undertaken of any note in this Province at any considerable distance.

22. What is the usual period of hiring for farm labourers ?

Frequently by the year, but generally by the month.

23. To what extent do the wages of labourers vary in summer and in winter ?

About 5s. Currency, (4s. 6d. Sterling,) per month, less in winter, except in the lumbering districts, or those in which the labourers are employed in felling timber.

24. What are the usual wages by week or month to farm labourers during harvest ?

3s. Currency, (2s. 6d. Sterling,) per day, if fed, or 4s. Currency, (3s. 7d. Sterling) if not, and from £2 10s. to £3 Currency, (£2 1s. to £2 14s. Sterling,) per month, with board, lodging, &c.

25. State the average retail prices in summer and winter of the articles named in the annexed table. (No. 2.)

Vide Table annexed (No. 2).

26. Does the price of provisions increase much in the settlements which are distant from the towns?

In proportion to the distance from the town and the land carriage.

27. Is beer the drink of the common labourer? and, if so, can it be procured all the year, and at what price?

It is not used in the Country Districts, but may be obtained in the towns, price from 1s. 6d. to 2s. Currency—(1s. 4d. to 1s. 9d. Sterling,)—per gallon; the labourers generally prefer West India Rum. There are Temperance Societies in the Province.

28. Will land be granted by the employers of labour, on which to erect a dwelling, and what extent of garden allotment is usually added?

It will, if required, with ample extent of garden, but labourers generally board with the farmer; those with families (except in towns) readily get land of their own on which to build.

29. What is the expence of erecting a log hut?

A very comfortable one, from £15 to £20 Currency, (£13 10s. to £18 Sterling, but much less when the work is chiefly performed by the Emigrant himself.

30. Does the log hut afford sufficient protection against the weather in all seasons?

When properly built it is extremely warm and comfortable.

31. Should locks, hinges, bolts, latches, &c., be taken out from England?

Quite unnecessary.

32. Is there a Clergyman in each of the settled districts?

Many of the settled districts are without Clergymen, but almost all are occasionally visited either by Clergymen or Dissenting Ministers.

33. Are there means of Education in the rural districts?

Yes—several Elementary Schools in each Parish, supported by Local Contributions, aided by Grants from the Legislature.

34. Are there any Savings Banks? and, if so, what interest on deposits is allowed?

There are two Savings' Banks—one at Saint John, N. B., and another at Fredericton. Interest £5 per cent.—the deposits invested in public securities.

35. Are there any Hospitals or Infirmaries?

There are Alms and Work Houses for the Poor in the Counties of St. John, York, St. Andrew's and Northumberland, and Overseers of the Poor in every Town and Parish—also a Penitentiary and Lunatic Asylum at Saint John,—Marine Hospitals for

the reception of Sailors, and establishments of Boards of Health at the chief Sea Ports.

36. Are there any Benefit Societies?

None at present—but the national ones of St. George, St. Andrew, and St. Patrick, which expressly afford relief to Emigrant Settlers.

37. Is there any Fund for the relief of the Destitute?

There is a rate raised in each Parish for relief of the Poor, and a Fund derived from the payment of 5s. Currency—(4s. 6d. Sterling.) of each Emigrant on arriving, to be applied to relieve them and assist them in removing to their locations.—There are also funds raised with these objects by the several Emigration Societies which are formed and forming, assisted by Legislative Grants.

FORM OF TABLE No. 1.—RATES OF WAGES.

TRADE OR CALLING.	AVERAGE WAGES PER DIEM.		AVERAGE WAGES PER ANNUM.	
	Without Board & Lodging.	With Board and Lodging.	C.Y.	With Board & Lodging.
	Currency.	Sterling.	Currency.	Sterling.
Bread and Biscuit Bakers, per mo.,			£3 to £3 10s	£2 17s to £3 3
Butchers,	7s to 8s	6s 3d to 7s 2d	5s to 6s	4s 6d to 5s 5d
Brickmakers,	5s to 6s	4s 6d to 5s 5d	3s to 4s	2s 8d to 3s 7d
Bricklayers,	8s to 10s	7s 2d to 9s	6s to 7s 6d	5s 4d to 6s 9d
Curriers,	6s to 7s	5s 4d to 6s 3d	4s to 5s	3s 7d to 4s 6d
Carpenters and Joiners,	7s 6d to 9s	6s 9d to 8s 2d	6s to 7s	5s 4d to 6s 3d
Cabinetmakers,	8s to 9s 6d	7s 2d to 8s 7d	6s to 8s	5s 4d to 7s 2d
Coopers,	5s	4s 6d	3s to 3s 6d	2s 8d to 3s 1d
Carters,	5s	4s 6d	3s to 3s 6d	2s 8d to 3s 1d
Cooks, (Women) generally per mo.,			15s to 20s	13s 6d to 18s
Combmakers, none,			15s to 20s	13s 6d to 18s
Dairy Women, per month,			1s 6d to 2s	1s 4d to 1s 10d
Dress Makers and Milliners,	2s 6d to 3s	2s 3d to 2s 8d	3s	2s 8d
Farm Labourers,	4s	3s 7d	4s	3s 7d
Gardeners,	5s	4s 6d	3s	2s 8d
Grooms,	4s	3s 7d	3s	6s 3d
Millwrights,	9s	8s		

Millers,	10s	9s	8s	7s 2d
			7s 6d	5s
				6s 9d
				8s to 10s

Millers,	10s	9s	7s 2d	8s	7s 2d
Blacksmiths,	6s	7s 2d	5s 6d	5s	5s
Painters,	8s to 10s	7s 9d to 9s	7s 6d	6s 9d	6s 9d
Plasterers,	8s to 10s	7s 2d to 9s	7s 6d	6s 9d	6s 9d
Plumbers and Glaziers,	7s to 9s	6s 3d to 8s	5s to 7s 6d	4s 6d to 6s 2d	
Quarrymen,	6s	5s 4d	4s	3s 7d	
Ropemakers, none,					
Shoemakers, per week,	£1 10s	£1 7s	£2 10s	£2 5s	
Sawyers,	7s 6d	6s 9d	6s	5s 4d	
Shipwrights and Boat Builders,	7s 6d to 10s	6s 9d to 9s	6s to 8s	5s 4d to 7s 2d	
Stonemasons,	7s 6d to 10s	6s 9d to 9s	6s to 8s	5s 4d to 7s 2d	
Sailmakers, per week,	30s to 40s	27s to 36s			
Slaters and Shinglers,	8s	7s 2d	6s	5s 4d	
Shepherds, none exclusively,					
Tanners,	7s	6s 2d	5s	4s 6d	
Tailors, per month,	£7	£6 6s	£5	£4 10s	
Wheelwrights,	7s 6d	6s 9d	5s	4s 6d	
Whitesmiths, per week,	30s to 40s	27s to 36s		£30 £27	

FORM OF TABLE No. 2.—RETAIL PRICE OF PROVISIONS AND CLOTHING.

ARTICLES.	Currency.	Sterling.
Provisions.	£ s. d.	£ s. d.
Salt Beef, per lb.	0 0 5	0 0 4½
Fresh do. do.	0 0 4	0 0 3½
Mutton, do.	0 0 5	0 0 4½
Lamb, do.	0 0 6	0 0 5½
Veal, do.	0 0 4	0 0 3½
Fresh Pork, do.	0 0 6	0 0 5½
Salt do. do.	0 0 6	0 0 5½
Fowls, per pair,	0 2 0	0 1 9½
Bacon, per lb.	0 0 8	0 0 7
Salt Butter, do.	0 1 0	0 0 10½
Fresh do. do.	0 1 1	0 0 11½
Fresh Milk, per quart,	0 0 4	0 0 3½
Cheese, per lb.	0 0 8	0 0 7
Eggs, per dozen,	0 1 0	0 0 10½
Potatoes, per bushel,	0 2 0	0 1 9½
Bread, best wheaten, per lb.	0 0 3	0 0 2½
Seconds, do.	0 0 2½	0 0 2½
Best wheat Flour, per brl. 196 lbs.	2 0 0	1 16 0
Seconds, do. do.	1 15 0	1 11 6
Oatmeal, per cwt.	1 0 0	0 18 0
Barley Meal, none,	0 0 0	0 0 0
Coals, per chaldron,	2 0 0	1 16 0
Candles, per lb.	0 1 0	0 0 10½
Firewood, per cord,	0 15 0	0 13 6
Common Soap, per lb.	0 0 6	0 0 5½
Tea, per lb.	0 4 0	0 3 7
Coffee, do.	0 1 0	0 0 10½
Rice, do.	0 0 3½	0 0 3
Sugar, brown, per lb.	0 0 6	0 0 5½
Do. white, do.	0 0 9	0 0 8
Salt, per bushel,	0 1 6	0 1 4
Pepper, per lb.	0 1 0	0 0 10½
Salt Fish, cheapest per 100 lbs.	0 12 6	0 11 3
Fresh Fish, very cheap.	0 0 0	0 0 0
Beer, per gallon,	0 2 0	0 1 9½
Porter, do.	0 1 6	0 1 4

ARTICLES.	Currency.	Sterling.
Clothing.	£ s. d.	£ s. d.
Men's stout shoes, per pair,	0 10 0	0 9 0
Women's do. do.	0 7 6	0 6 9
Snow over shoes,	0 10 0	0 9 0
Men's shirts; cotton,	0 3 6	0 3 2
Do. smock frock, not used,	0 0 0	0 0 0
Flannel, per yard,	0 2 0	0 1 9½
Cloth for coats, per yard,	0 10 0	0 9 0
Cotton for gowns,	0 0 10	0 0 9
Fustian, per yard,	0 1 6	0 1 4
Velveteen, do.	0 3 0	0 2 8

* The above-mentioned articles of Clothing are supposed to be of the average quality generally used by persons of the labouring classes.

N. B.—The prices in this Return are stated in the Currency of the Province, and also in British Sterling at par, viz. Dollars at 4s. 6d. In New Brunswick the Dollar passes at 5s.; the Sovereign and British Crown, as established by Law of the Province, at 22s. 3d. and 5s. 6d. Currency; but owing to the premium they generally bear, the Sovereign is seldom less than 24s. and the Crown 6s.; but at present the Sovereign will bring as much as 25s. It is therefore adviseable for Emigrants to bring out their money in specie.



CROWN LAND DEPARTMENT.

THE matter which appears under this head, was furnished by Mr. Andrew Inches, draftsman of the Department; for his prompt and obliging civility, in complying with the author's request for it, under the permission of the Honorable the Commissioners of the Crown Lands, he avails himself of this place to tender his acknowledgments; and it may not be improper to add, that the well-known attention of Mr. Inches to his various duties, greatly facilitates the transactions of such persons who have business in the Crown Land Office.

The compilation of Mr. Inches was enclosed in a letter, of which the following is a copy:

Crown Land Office.

SIR,—Your letter having been placed in my hands by the Surveyor General, I have, upon careful consideration, thought it most advisable, instead of furnishing you with a vast number of conflicting regulations and orders, made at various times, respecting the disposition of Crown Lands and timber, to compile an abstract of their present state, giving the forms necessary for petitions, and such other matter as seemed to me requisite for general information, which I have drawn up in as brief a manner as possible.

Should you think proper to publish what I now send you, in its present form, I have no hesitation in saying, that it will add much to the usefulness of your valuable work. The information

will be important, not only to the Lumberman, but also to the Immigrant.

I remain, Sir,

Your obedient servant,

A. INCHES,

P. Stubs, Esquire.

Draftsman.

THE Province of New Brunswick contains about 16,500,000 acres of land, of which upwards of 10,000,000 acres are yet ungranted and for sale. The following is an abstract of the present Rules and Regulations, respecting the purchase of Crown Lands or Timber.

All applications to be made by Petition, addressed to his Excellency the Lieutenant Governor, in the annexed forms.

Land Petition, form A.

Timber do. do. B.

Land Petition (not for settlement,) C; and which are to be filed in the Crown Land Office.

The Surveyor General will prepare lists of all such Petitions received by him, on or before the 24th day of every month, or oftener if necessary, to be laid before the Lieutenant Governor in Council, on the first day in every month, (not being Sunday,) and the answers to the same are to be published in the first Royal Gazette after the Petitions have been decided on.

Any Petitions presented after the 24th day of any month, will not be inserted in the list for the first following Council, but must lay over till the second Council.

When land is sold by auction, the sale takes place at the Crown Land Office in Fredericton, after due notice thereof in the Royal Gazette.

Land Petition, A, for Land for immediate settlement.

To His Excellency Lieutenant Colonel Sir William M'Bean George Colebrooke, K. H., Lieutenant Governor and Commander in Chief of the Province of New Brunswick, &c. &c. &c.

The Petition of , of the Parish of
 , in the County of , humbly sheweth,
 That he is a British subject, born in , and
 does not own any land; that he wishes to obtain by purchase a
 tract of Land for immediate settlement, containing
 acres, and situate as follows:

(Here describe the Land applied for very particularly.)

The said land is at present in a wilderness state, no improvements having been made thereon, (*or as the case may be,*) and he requests that he may be allowed to purchase it at per acre, payable and if so allowed, he is prepared to, and will settle himself upon, and improve the same forthwith, and conform in all respects with the regulations for granting of land.

And as in duty bound will ever pray.

(Date)

(Petitioner's name)

Land Petition, C, not for immediate settlement.

To His Excellency Lieutenant Colonel Sir William M'Bean
 George Colebrooke, K. H., Lieutenant Governor and Commander
 in Chief of the Province of New Brunswick, &c., &c., &c.

The Petition of humbly sheweth,
 That he is a British subject, and that he is desirous of purchasing acres of Land, situate as follows:—
(as in form A.. so far as the same is applicable.)

All applications from Squatters must contain a full statement of the improvements they have made, the time they have been located on the land applied for, and the other circumstances upon which they found their claim, and such applications must be verified by the affidavit of the party applying, accompanied by a certificate from some neighbouring Justice of the Peace, or other person of respectability.

All Petitions for the purchase of Crown Lands must be signed by the applicant himself, and the sum of Twenty Shillings must be paid to the Receiver General, as a deposit, at the time of entry, which is afterwards allowed as part of the purchase money, but returned if the petition be not complied with.

If the land applied for be not already surveyed, an order immediately issues to a Deputy Surveyor, directing him to survey, at the applicant's expence, the cost of which is generally from 30s. to 70s. per lot, according to circumstances. When the return of survey is received at the Crown Land Office, the Petition is laid before the Lieutenant Governor, in Council, on the beginning of the next month, for their decision as to price, which is then published in the Royal Gazette. If approved of at private sale, sixty days are then allowed for payment; but if ordered to be sold at public auction, the land is advertised in the Royal Gazette for two months. Ten per cent. of the purchase money is required to be paid at the time of sale, and the remainder within fourteen days afterwards. When the purchase money is all paid, a patent issues under the Great Seal of the Province, free of any further expence to the purchaser.

The general price of wilderness land is three shillings per acre, and 5s. additional is charged upon each purchase, for postage, &c.; but if the land include any meadow, mill site, intvale, pine timber, or there is any other circumstance which may enhance its value, the price is increased accordingly.

One hundred acres only, on condition of actual and immediate settlement, can be purchased by private sale; if a greater quantity be applied for, it is sold by auction.

None but those persons who have settled and improved on Crown Lands prior to July 1837, are allowed to purchase by four annual instalments, the first of which must be paid when the Petition is complied with. As the law now stands, no land can be sold under 2s. 6d. per acre, down.

In all cases where the purchase money is not paid within the prescribed time, the deposit is forfeited, and the land becomes vacant, and is again open for purchase.

Half-pay Officers of the Army or Navy of the United Kingdom, who may be desirous of obtaining land in this Province, for the purpose of actual settlement, are allowed a remission of the purchase money or part thereof, according to the following graduated

scale, on the production of testimonials of unexceptionable character from the General Commanding in Chief, or from the Lords of the Admiralty.

Field Officers of the Army of 25 years' service in the whole, and upwards,	£300	0	0
Field Officers of the Army of 20 years' service in the whole, and upwards,	£250	0	0
Field Officers in the Army of 15 years' service in the whole, or less,	£200	0	0
Captains in the Army of 20 years' service in the whole, and upwards,	£200	0	0
Captains in the Army of 15 years' service in the whole, or less,	£150	0	0
Subalterns in the Army of 20 years' service in the whole, and upwards,	£150	0	0
Subalterns in the Army of 7 years' service in the whole, or less,	£100	0	0

And Officers of Her Majesty's Navy, of the corresponding ranks and terms of service, in the like proportion; but no remission of purchase money is made to any Officers of the Civil Departments of the Army or Navy; and no free grants of land are now made by the Government to discharged non-commissioned Officers, or private soldiers.

LICENCE TO CUT TIMBER OR LUMBER.

Timber Petition, B.

To His Excellency Lieutenant Colonel Sir William M'Bean
George Colebrooke, K. H., Lieutenant Governor and Commander
in Chief of the Province of New Brunswick, &c., &c., &c.

The mark he intends using to distinguish the Timber now applied for is and he pledges himself to conform to the regulations to be observed by persons obtaining licence for Timber or Lumber.

And as in duty bound will ever pray.

(Date)

(Petitioner's name.)

The rates of duty are as follows :—

Square Red Pine Timber,	2s. 6d. per ton.
-------------------------	------------------

Sq. White and Sapling Red Pine,	2s. 0d. do.
---------------------------------	-------------

Sq. Birch, Spruce, and Hemlock,	1s. 6d. do.
---------------------------------	-------------

Pine and Spruce logs, 3s. 6d. per 1000 superficial feet.	
--	--

And for all other descriptions of wood, the sum of Ten Pounds upon every One Hundred Pounds of the estimated value.

The sum of 45s. must be paid as a deposit on all applications for licence to cut Timber or Lumber, at the time of entering the Petition. This deposit will be credited as part of the tonnage, when the Petition is complied with, but if refused, the deposit will then be returned.

In all cases where the tonnage is not paid within 60 days after notice in the Royal Gazette, the deposit is forfeited, and the berth again becomes vacant.

When the berth is vacant, it is invariably licenced to the first applicant, and where two or more persons apply on the same day, the berth is offered at auction, for competition between them only.

Applications for licence should in all cases be made as early in the season as possible, and should particularly describe the situation applied for.

The Licences take date from the 1st day of May in each year, and expire on the 1st day of May following, unless renewed before that date, which is optional with the licensee.

Where an excess is cut over the quantity licenced, timely application must be made therefor, at the Crown Land Office, in the manner above described, as soon as possible in the latter part of the winter; for if such excess be found by the Inspecting Officer before it is secured by the proper application, it is liable to seizure, and to pay double duty.

All Timber or Lumber cut on Crown Lands must have the mark described in the Licence, otherwise it is liable to seizure.

Surveys of Timber berths, when necessary, must be made at the expence of the party interested.

When trespass is made upon a licensee by unauthorised per-

sons, complaint should immediately be made to the Crown Land Office,* when the Deputy Surveyor of the District will be directed to seize the timber or lumber so made, and the injured party should then apply for reparation, by petition, through the Crown Land Office, to His Excellency, the Lieutenant Governor.

* See Kerr vs. Connell, Berton's Rep. p. 51.—cited *ante* p. 23.

CUSTOM-HOUSE FORMS OF ENTRY.

Copy of 21st Sec. of the Act 3d & 4th Wm. 4th, Ch. 59.

And be it further enacted, that the person entering any such Goods shall deliver to the Collector or Controller, or other proper Officer, a Bill of the Entry thereof, fairly written in words at length, containing the name of the Exporter or Importer, and of the Ship, and of the Master, and of the place to or from which bound, and of the place within the Port where the Goods are to be laden or unladen, and the particulars of the quality and quantity of the Goods, and the Packages containing the same, and the Marks and Numbers on the Packages, and setting forth whether such Goods be the produce of the *British Possessions in America* or not; and such person shall at the same time pay down all Duties due upon the Goods; and the Collector and Controller, or other proper Officer, shall thereupon grant their Warrant for the lading or unlading of such Goods.

Copy of 16th Sec. of the Act 6th & 7th Wm. 4th, Ch. 60.

And whereas, by the said last mentioned Act, the person entering any Goods is required to deliver to the Collector and Controller, or other proper Officer, a Bill of the Entry thereof, containing the several particulars set forth in the said Act; be it enacted, that such person shall also deliver at the same time one or more duplicates of such Bill, in which all sums and numbers may be expressed in figures,—and the particulars to be contained in such Bill of Entry shall be written and arranged in such form and manner, and the number of such duplicates shall be such as the Collector and Controller shall require.

No. 1.

IMPORTED in the Schooner Hazard, Crowell, Master, from Halifax, by Faulkner & Wheeler.

H	12 casks Olive Oil, 560 gallons, cost £45, Currency, ex "Persa," a Gibraltar, 1st July last.—Duty paid at Halifax.	
F & W	20 packages Cordage, wt. 56 cwt., cost £75 Currency.	Manufacture of United Kingdom—Ex "Queen Victoria," a Liverpool, 8th July last.
B	10 barrels Salted Beef, produce of the Canadas, cost £27.	
P	20 kegs Butter, 1020 lbs., cost £37, produce of Nova Scotia.	
L H	15 hogsheads Sugar, wt. 1qr. 4lbs.—ex W. H. Halifax, ex "Evelina," a Martinique, 12th July last.	Duty £.

Saint John, New-Brunswick,
12th Sept. 1839.

(*Entry for Free Goods, or Goods paying Duty by Tale.*)
Three copies, all signed by the person making the entry.

IMPORTED in the

by

No. 2.

Master, from

Marks and Numbers.	Description of Packages.	ARTICLES & QUANTITY.	Rate of Cost.	Total amount of Cost.	Value Sterling.	Duty Ster- ling.
T P	Barrels	150 Wheat Flour,	17½ cts.	\$928 13	£201 1 11	£32 10 0
"	Kegs	6 Manufactured Tobacco, 1064 lbs.	22	186 20	40 6 10	8 7 6½
"	Half-Brls.	1 Snuff, (in bladders) 69 lbs.	25	15 18	3 5	14 8
S	1 Box	1 do. (in 2 doz. bottles) 13 lbs.	3	25	14 1	3 1
"	Barrel	value of 2 doz. glass bottles,	75	3	3	8½
C	do.	1 Spirits Turpentine, 34½ gallons,	36	12 42	2 13 10	4 4½
		100 Corn Meal, free, per Act 3 & 4, W. 4., c. 59.	452 00	93 12 0		
		Duty £				

I, do Declare that the above is the true Invoice Price of the said articles, and that I verily believe that such Invoice price is the current value of the articles at the place from whence they were imported.
Declared before me, at the Custom House, Saint John, N. B. }
184

(Entry for Goods paying an ad valorem duty.)



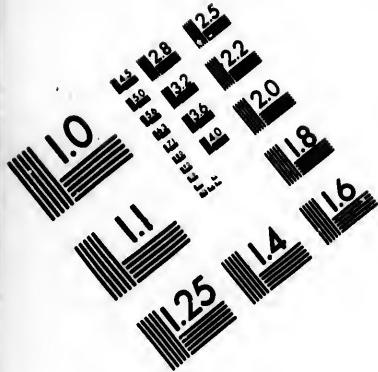
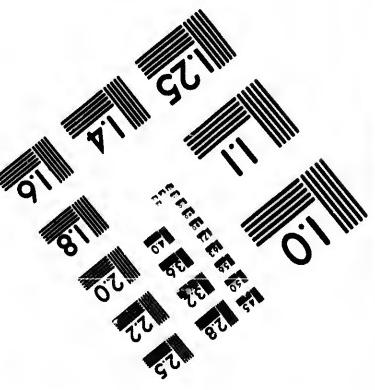
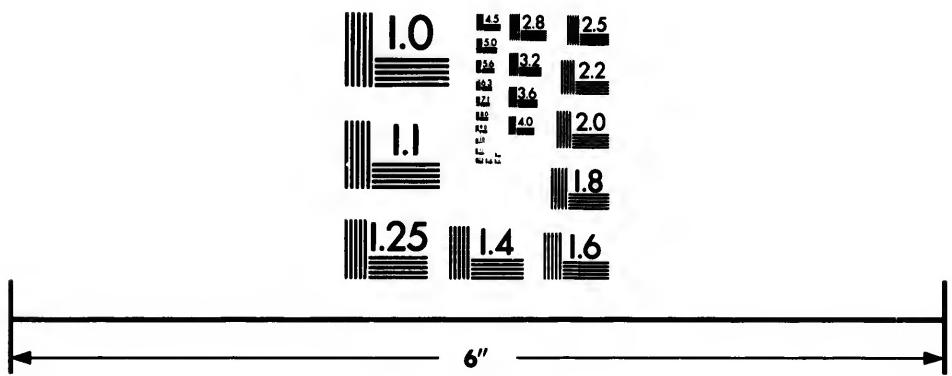
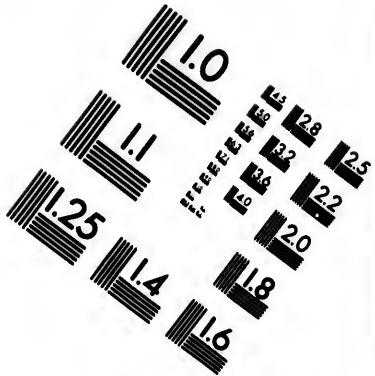


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No. 3.

WAREHOUSE INWARDS

IN the "Snow Ball," J. Burns, Master, from Halifax.

Simeon Lee Lugrin.

Marks and Numbers.	
No mark.	
1 a 20	

20 hogsheads Sugar—Ex W. H. Halifax, ex "Neptune," Porto Rico, 10th August last.

To be Warehoused by virtue of the Act 3d and 4th Wm. 4th, cap. 59, at Merritt's Warehouse, Bond being given.

St. John, N. B.
Nov'r 1839.

(*Goods subject to Take Duties.*)
Three copies, two signed by the person making the entry.

No. 4.

WAREHOUSE—INWARDS.

IN the "Banner," H. Chisholm, Master, from Boston.

Faulkner & Wheeler.

Marks and Numbers.	ARTICLES.	Rate of Cost.	Total amount of Cost.
F. & W. 1 a 20	Twenty kegs Manufactured Tobacco, wt. 3985 lbs., 40 brls Wheat Flour.	12½ c. a lb.	\$498 13

I, Evan Z. Wheeler, do declare that the several Prices above mentioned are the true Invoice Prices of the respective Articles as above stated, and I verily believe that such Invoice Prices are the current value of the Articles at the place from whence they were imported.

Declared before me, at the Custom House, Saint John, N. B:
September, 1839.

(Signed) EVAN Z. WHEELER.

Coull.

To be Warehoused by virtue of the Act 3d and 4th Wm. 4th, cap. 59, at N. Merritt's Warehouse, Bond being given.
FAULKNER & WHEELER.
by E. Z. WHEELER.

(*Goods subject to ad valorem Duties.*)
Three copies, two signed by the person making the Entry.

No. 5.

FOR THE USE OF THE BRITISH FISHERIES.

EX the "Henry," H. Black, Master, from New York.

Thomas & Sandall.

Marks and Numbers.	P	Rate of Cost	Total amount of Cost.
	1 barrel Salted Pork, wt. 1 cwt. 3q. 4lbs.		

I, George Thomas, do Declare that the articles above mentioned are intended to be used on board the Schooner "Swan," Thomas Dunham, Master, employed in fishing in the Bay of Fundy.
Declared before me, at the Custom House Saint John, N.B. }
GEORGE THOMAS.
12th August, 1839,

Coll.

Warehoused 23d April, 1839, at Merritt's Warehouse, by selves, and now for the use of the British Fisheries.

Three copies, two signed by the person making the Entry.

No. 6.

FOR EXPORTATION EX WAREHOUSE.

EX the "Allegro," Phelan, Master, from Philadelphia.

D. & F. LEAVITT.

<i>Marks and Numbers.</i>	<i>Rate of Cost.</i>	<i>Total Cost.</i>
L 15 hogsheads, 1 box, Leaf Tobacco, wt. 14,298 lbs.	11cts.	\$1572 78
" 40 barrels Wheat Flour.		
Value,	Duty, £	

Warehoused 29th October, 1839, at N. Merritt's Warehouse, by selves, and now for exportation in the
" James Hay," Francis Leavitt, Jun. Master, for Sierra Leone, Bond given.
Saint John, New Brunswick,
15th Nov. 1839.

Note.—State the value, weight, measure, or number, as the Goods may be liable to Duty.
Two copies, signed by the person making the Entry.

No. 7.

HOME CONSUMPTION—*Ex Warehouse.*

EX the "Meridan," Crowell, Master, from Halifax.

Willard Buchanan & Co.

Marks and
Numbers.

A W
No. 21
No. 15

1 hogshead Sugar, wt. 10cwt. 2qrs. 10lbs.—ex "St. Lawrence," Martinique, 5th July, 1839.
1 puncheon Molasses, 136 gall. wt. 13cwt. 1qr. 12lbs.—ex "Emigrant," Cuba, 12th August last.

Molasses.
Duty Prior,
Sub,

Sugar.
£0 11 4
2 0 1
2 12 11
£2 11 5

£5 4 4 Duty.

Warehoused 11th November, 1839, at N. Merritt's Warehouse, by selves, and now for all Duties.

St. John, N.B.
Nov. 16, 1839.

(*Goods subject to Tale Duties.*)
Three copies, two signed by the person making the Entry.

(*Goods subject to Tale Duties.*)

Three copies, two signed by the person making the Entry.

३८

HOME CONSUMPTION—*Ex* Warehouse.

EX the "Eleanor Jane," R. Fields, Master, from Boston.

John Kerr & Co.

Marks and Numbers.		Description of Package.	ARTICLES AND QUANTITY.		Total Rate of Cost. amount of Cost.
K 5, 16, 19, 20, 21, 25, 32, 33, 34.	kegs	10, Manufactured Tobacco, 1998lbs.	Duty, £	12 cts. a lb.	\$239 76

Coel.
Warehoused 17th September 1829, at N. Merritt's Warehouse, by selves, and now for all Parties.

JAMES B CRANE for JOHN KERR & CO.

(Goods subject to ad valorem Duties)

(Crosses subject to all documents.)
Three copies, two signed by the person making the Entry.

No. 9.

WAREHOUSE—INWARDS.

IN the "Caroline," Robinson, Master, from Philadelphia.

William Carvill.

B c Six barrels Salted Beef, wt.—10cwt. 2qr. 24lbs.

To be deposited in Merritt's Warehouse, under the Honorable Board's Order, No. 72, dated the 4th Dec. 1832.
Saint John, N. B. }
Sept. 2, 1839. }

(*Ship's Provisions Inwards.*)
Three copies, two signed by the person making the Entry.

No. 10.

EX WAREHOUSE.

EX the "Caroline," Robinson, Master, from Philadelphia.

William Carvill.

c Six barrels Salted Beef, wt.—10cwt. 2qr. 24lbs.
B
1 a 6.

Deposited per self at Merritt's Warehouse, the 2d Sept. 1839, now to be re-shipped on board the same vessel,
bound for Dublin, pursuant to the Honorable Board's Order, No. 72, dated the 4th December, 1834.
Custom House, Saint John, N.Y.B.
28th Sept. 1839.

Three copies, (*Ship's Provisions, Outwards.*)
two signed by the person making the entry.

No. 11.

FOR THE USE OF THE BRITISH FISHERIES.

IMPORTED in the "Perseverance," Appleby, Master, from Eastport, by Mechanics' Whale Fishing Co.

Marks and Numbers.	Cost.
M W F C	\$158 00
1 a 8	2 56
	59 00
Eight coils Whale Line, 1127lbs. 24 barrels Wheat Flour, 1 coil Lance Line, 18lbs. 3 boxes Manufactured Tobacco, wt.—393lbs.	

I, John Kirby, Secretary to the Mechanics' Whale Fishing Co., do Declare that the articles above mentioned are intended to be used on board the ship "Java," Griffiths, Master, employed in fishing in the South Seas.
Declared before me, at the Custom House, Saint John, N. B.
October 31, 1839.

Coll.

(Entry when articles are taken direct from the importing Vessel for the use of British Fisheries.
Three copies, two signed by the person making the Entry.

No. 12.

TRANSFER OF GOODS IN WAREHOUSE.

I HEREBY transfer unto David Stiles, of the city of Saint John, Merchant, the undermentioned Goods:

<i>Marks & Numbers</i>	<i>ARTICLES & QUANTITY.</i>
J N 1 a 10	10 puncheons of Foreign Spirits.

Warehoused by me, on the First day of July, 1841, ex "Victoria," Bowline, Master, from Halifax, N. S., at
Merrit's Warehouse.

Signed at the Custom House, Saint John, N. B.
1st July, 1841, before me,

JOHN NOKES.

COLL.

MARITIME.

BILL OF SALE OF A SHIP.

No bill of sale is valid or effectual, for any purpose, until produced to the collector and comptroller of the port where the ship is registered, or about to be registered *de novo*, who are to enter in her last book of registry, in the one case, or in the book of registry *de novo*, after all requisites for such registry *de novo* have been complied with, in the other case, the name, residence, and description of the vendor and vendee, mortgagor and mortgagee, or each, if more than one; the number of shares transferred, and the date of the instrument, and of the production of it; and are (except in case of registry *de novo*, when a new certificate is granted,) to indorse on the ship's certificate of registry, when produced to them, the aforesaid particulars in a prescribed form, and give notice thereof to the commissioners of customs, and if required, to certify, by indorsement on the bill of sale, or other instrument, that such entry on the book, and endorsement on the certificate of registry, have taken place.

When the *entry in the book of registry* has been made, the bill of sale, or other instrument, becomes effectual to pass the property intended to be transferred, as against all persons whatever, except against such subsequent purchasers and mortgagees who shall first procure the *indorsement* to be made on the *certificate of registry*, in manner hereinafter mentioned.

For where the same property has been transferred more than once, the several vendees and mortgagees take priority, *not according to the time of entering their respective instruments in the book of registry, but according to the time when the indorsement is made on the certificate*.

Thus if the owner of a share fraudulently execute two different bills of sale thereof to two different persons, and both cause their conveyances to be entered in the book of registry, but the second get into possession of the certificate, and procure the indorsement to be made on it, he, and not the first vendee, will have the legal title to the share.

But it is further provided, that when any instrument of transfer has been entered in the book of registry, there must be a lapse of

thirty days, or (if the ship were absent from her port at the time of such entry,) thirty days from her arrival thereto, before any instrument, purporting to be a transfer of the same ship or share from the same vendor or mortgagor to any other person, can be entered: so, if a second instrument have been entered, a like period must elapse between its entry and that of a third: and wherever more than one have been entered, the officer is to indorse on the certificate the particulars of that one under which the person claims, who shall produce the certificate for that purpose within thirty days after the entry of his instrument in the book, or of the ship's return to port, if she were absent at the time of such entry: and if no person produce the certificate within such time, then the officer is to indorse the particulars of that person's instrument who shall first produce the certificate for that purpose. It is however provided, that if the certificate be lost, mislaid, or detained, on proof of this by a vendee or mortgagee, time may be granted either for its recovery or for registry *de novo*, during which additional time no other transfer can be entered in the book of registry.

Thus it appears, that in case of successive sales of the same property by the same person, each of the rival vendees has thirty days from the entry of his instrument, or next subsequent return of the ship to port, during which no one but himself can obtain a perfect title. But if he let that space of time go by, he will be in danger of having his claim defeated by an indorsement of the particulars of some other vendee's instrument on the certificate, unless indeed further time have been granted to him, in the manner above pointed out.

To put an example. Suppose the owner of a share in a ship at sea fraudulently executes one bill of sale to A, and another to B; A causes his bill of sale to be entered in the book of registry at the ship's port: his title is now perfect against the vendor, and against every one else except B; and B himself cannot procure his bill of sale to be even entered in the book of registry, the time not having elapsed, which is given, as we have shown, to A exclusively. The ship returns to port, say on the 1st of October; A allows that month to elapse without taking any step: on the 31st of October A's thirty days expire; and on the first of November B procures his instrument to be entered in the book of registry, but neglects to adopt any further measure to secure his purchase. A now obtains the certificate of registry from the master of the ship, but cannot perfect his title, by having the particulars of his bill of sale indorsed on it, until the 2nd of December shall have arrived, the law appropriating the intermediate days to the use of B. On the 2nd of December, however, A produces the certificate to the collector and comptroller at the ship's port, has the indorsement made, and his title then becomes perfect against all the world.—*Smith's Comp. Merc. Law.*

BOTTOMRY AND RESPONDENTIA.

BOTTOMRY is an agreement entered into by the owner of a ship, or his agent, whereby, in consideration of a sum of money advanced for the use of the ship, the borrower undertakes to repay the same with interest, if the ship terminate her voyage successfully, and binds or hypothecates the ship for the performance of his contract. The instrument by which this is effected, is sometimes in the shape of a deed poll, and is then called a Bottomry Bill; sometimes in that of a bond; but whatever be its form, the contract should be clearly set out in it. Bills of Exchange drawn by the master, or the owner, though accompanied with a verbal engagement, that the ship shall be liable, cannot be considered instruments of hypothecation.

If the loan be not upon the vessel, but on the goods or merchandise laden on board her, it is called *Respondentia*.

There are two main differences between these contracts and a common loan.

1st. *The Risk*.—The lender's principal must be at hazard during the voyage. The lender of the money is, as we shall immediately see, entitled to receive a recompense far beyond the legal rate of interest; this recompense is very properly called in the civil law, *periculi pretium*, and no person can be entitled to it who does not take upon himself the perils of the voyage; but it is not necessary that his doing so should be declared expressly, and in terms, though this is often done; it is sufficient that the fact can be collected from the language of the instrument, considered in all its parts. Hence, where the words were, "I bind myself, my ship, and tackle, to pay the sum borrowed, with twelve per cent. bottomry premium, in eight days after my arrival at the port of London," the Court were of opinion, that the words, "my arrival," must be understood to mean, my arrival with the ship, or the ship's arrival. But a total loss of the ship, within the meaning of a bottomry bond, cannot happen, if it exist in specie, although ever so much injured.

2dly. *The amount of Interest*.—Upon a *Bottomry* or *Respondentia* contract, it is competent to the lender to receive any interest whatever.

The terms *bottomry* and *respondentia* are also applied to contracts for the repayment of money borrowed, not on the ship and goods only, but on the mere hazard of the voyage itself; as where a man lends a merchant £1000 to be employed in a beneficial trade, on condition to be repaid with extraordinary interest, in case such a voyage be safely performed, which kind of agreement is called by some writers *fauus nauticum*, and by others, *usura maritima*: but by stat. 19 G. 2. c. 37, money lent on bottomry or respondentia, on vessels belonging to His Majesty's subjects, bound

to or from the East Indies, must be lent only upon the ship or merchandize, with benefit of salvage to the lender; a previous statute, 7 G. 1. c. 21, having made void all contracts by His Majesty's subjects, on the loan of money by way of bottomry, on any ship *in the service of foreigners*, bound to the East Indies.

This contract is generally entered into, either by the owner or the master, acting under an implied authority, as his agent. If it be made by the owners themselves in this country, before the commencement of the voyage, the lender has not the same convenient and advantageous remedy by suit in the admiralty against the ship, as he has in the case of hypothecation for necessaries by the master in a foreign port, and if the contract refer to a British ship, of which it purports to be an assignment, compliance with the provisions of the Registry Act seems necessary to its validity. Neither does there seem to be any mode by which a person who advances money at respondentia, on goods laden and to be laden, on board a ship, on an outward and homeward voyage, can entitle himself to resort for payment of his debt, to the specific goods that may be brought back.

The authority of the master to hypothecate the ship and freight, in case of necessity, at a foreign port, is indisputable; and his hypothecation of the freight or cargo is also justifiable, if necessary. The advantage of allowing the master to take money on bottomry, consists in its enabling him to procure assistance when no other resource is at hand, and the adventure would be frustrated if assistance were not afforded. Such being the reason for permitting him to borrow money on these terms, it follows, that he has no right to do so when he is at the owner's place of residence, and the means of communication with him are open, for then he has the owner to resort to. And, with us, all England would, at least before the commencement of the voyage, be considered the owner's residence, for this purpose, and so, perhaps, would Ireland, since the union, though before that period it was otherwise. It follows also, that the master ought not to take up money on bottomry, even for a necessary purpose, if it can be procured on more moderate terms.

When the master, finding it absolutely necessary, for the purposes of the voyage, to obtain money, and being unable to obtain it in any other manner, executes an instrument of hypothecation, the effect of his contract is, to give the creditor, not indeed a property in the ship hypothecated, but a privilege or claim upon it to be carried into effect by legal process. And where the interest reserved exceeds, as it almost always does, the legal rate of 5 per cent., the owner cannot be made personally responsible, and the lender's remedy will be against the master or the ship; though it would seem, that if the lender will content himself with 5 per

cent., the master may pledge both the ship itself and the personal credit of the owner.

It is no objection to the validity of a bottomry bond that it is given to the consignee of the cargo; the necessity for borrowing, and the fairness of the transaction, being established; but the money must have been originally advanced upon the credit of the ship; if it be originally advanced on that of the owner, and such a bond be afterwards given, in consequence of doubt arising as to his responsibility, even before the ship leaves the place of advance, the bond will be invalid. It is clear that the master cannot hypothecate the ship for any debt of his own; though if she really were in a state of want, and the money *bona fide* advanced to relieve her, his subsequent misapplication of it would not prejudice the lender's remedy.

Where the ship has been hypothecated by the master in a foreign country, the lender has, as we have seen, a privilege or claim against the ship itself, of which he may avail himself as follows:—upon the arrival of the ship in this country, if the loan be not repaid within the time prescribed, the agent of the lender applies to the Court of Admiralty, with the instrument of contract, and a proper affidavit of the facts, and obtains a warrant to arrest the ship, and to cite all persons interested to appear before the court if they think proper to do so. If, in the course of the proceedings, it becomes necessary to sell the ship, the Court decrees a sale to be made under the direction of its own commissioners, and afterwards distributes the proceeds among the different claimants, as justice requires; and this may be done if the owners, or persons interested in the ship, do not appear at the time appointed by the Court, otherwise their absence or default would occasion a failure of justice. As to the mode of distributing the proceeds among the several claimants, it is worthy of observation, that if securities of this sort are given at different periods of a voyage, and the value of the ship is insufficient to discharge them all, the last in point of date is entitled to priority of payment; because the last loan furnishes the means of preserving the ship, and without it the former lenders would have entirely lost their security. In order, however, that this rule may apply, the security last in date must have arisen out of the destitute situation of the master, and his inability to obtain the necessary supplies for his vessel, on the personal credit of himself, or of his employers.—*Smith's Comp. Merc. Law.*

FORM OF A BILL OF SALE OF A VESSEL,

Know all men, by these presents, that _____, of _____, in the _____, merchant, and owner* of _____ sixty-fourth shares of all the good vessel called the "_____", for and in consideration of the sum of _____ pounds, of lawful money of New Brunswick, to him in hand well and truly paid, at and before the sealing and delivery of these presents, by _____ and _____, both of _____ aforesaid, mariners, the receipt and payment whereof is hereby acknowledged, have granted, bargained, sold, assigned, transferred, and set over, and by these presents do fully and absolutely grant, bargain, sell, assign, transfer, and set over, unto the said _____, their executors, administrators and assigns, _____ sixty-fourth shares of the said vessel, and to the said _____, their executors, administrators, and assigns, _____ sixty-fourth shares of, in, and to all the good vessel called the '_____, of the burthen of _____ tons or thereabouts, and all and singular the said shares of all her masts, sails, sail-yards, anchors, cables, ropes, cords, tackle, furniture and apparel whatsoever, to the said vessel belonging or in any wise appertaining, which said vessel has been duly registered at the port of _____, and a copy of the certificate of said Registry is as follows:

(Here must follow an exact copy of the Certificate of Registry.)
To have and to hold, the said shares in the proportions above specified, of, in and to all the good vessel called the "_____", and all and singular other the premises hereinbefore mentioned, and hereby bargained and sold, or intended so to be, and every part and parcel thereof, with the appurtenances, unto the said _____ and _____, their executors, administrators and assigns, to their only sole and proper use, behoof, benefit and advantage for ever.

In witness whereof, the said _____ hath hereunto set his hand and seal, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

Sealed and delivered }
in presence of }

_____ [L. S.]

* By a Custom House Order, dated London, 18th Dec. 1835, it is required, that in all future transfer of ships, each party transferring will be required to do so, either by a separate conveyance, or where the owners of shares join in one conveyance, they will be required to state what share or shares each of them conveys, and in the granting part, after the customary words, "grant, bargain, sell, assign and set over," the words "in the proportions above specified," shall likewise be added.

BONDS CONCERNING RESPONDENTIA AND
BOTTOMRY.

Respondentia. — to —.

(For obligatory part see ante page 32.)

WHEREAS the above named _____ has, on the day of the date hereof, advanced and lent unto the above bound _____ the sum of _____ upon goods, merchandizes and effects, laden or to be laden on board the said ship or vessel, called the _____, burthen _____ tons or thereabouts, now in the river _____. NOW THE CONDITION of the above bond or obligation is such, that if the said ship or vessel do and shall with all convenient speed proceed and sail from _____ on a voyage to _____, or any other port or ports, place or places, in _____, and that without deviation, (*the dangers and casualties of the seas excepted*); and if the above bounden _____, heirs, executors, and administrators, do and shall, within _____ days next after the said ship or vessel's arrival at _____, or at the end and expiration of _____ calendar months to be accounted as aforesaid, which of the said terms shall first and next happen, well and truly pay, or cause to be paid, to _____, heirs, executors, administrators or assigns, the value of _____, together with _____ for every calendar month the said ship shall be on the said voyage over and above _____ calendar months to the expiration of _____ calendar months, to be accounted as aforesaid, and so on in proportion for a less time than a month. Or if in the said voyage, and before the said ship's arrival at _____, an utter loss of the said ship by fire, enemies, pirates, men of war, or any other casualty shall unavoidably happen, and the above bounden _____, heirs, executors or administrators, do and shall, within _____ calendar months after such loss happening, well and truly pay, or cause to be paid, to the said _____, executors or administrators, for the use of the said _____, heirs, executors, administrators or assigns, a just and proportional average on all the goods, merchandizes and effects which the said _____ shall carry out from _____ on board the said ship, and all other goods and effects which _____ shall acquire during the said voyage, and which shall not be unavoidably lost. Then this obligation to be void, otherwise to remain in full force. Witness _____ hand and seal _____ to _____ obligations of this tenor and date, one of which being accomplished, the other — to be void.

Respondentia. —— to —— and back.

(*For obligatory part see ante page 32.*)

WHEREAS the above named _____ ha _____ on the day of the date hereof advanced and lent unto the above bound _____, the sum of _____ upon goods, merchandizes and effects of that value, laden or to be laden on board the said ship or vessel called the _____, burthen _____ tons or thereabouts, now in the river _____. NOW THE CONDITION of the above written bond or obligation is such, That if the said ship or vessel do and shall with all convenient speed proceed and sail from _____ on a voyage to _____, or any other port or ports, place or places in _____, and back to the said river _____, within _____ calendar months, to be accounted from the date hereof, and that without deviation, (*the danger and casualties of the seas excepted,*) and if the above bounden _____, heirs, executors, or administrators, do and shall within _____ days, next after the said ship or vessel's arrival at _____ from the said intended voyage, or at the end and expiration of _____ calendar months, to be accounted as aforesaid, which of the said terms shall first and next happen, well and truly pay, or cause to be paid, to the above named _____, executors, administrators, or assigns, the sum of _____ pounds of good and lawful money of New Brunswick, together with _____ pounds of the like lawful money for every calendar month the said ship shall be out on the said voyage over and above _____ calendar months, to the expiration of _____ calendar months, to be accounted as aforesaid, and so in proportion for less time than a month. Or if, in the said voyage, and within the said _____ calendar months, to be accounted as aforesaid, an utter loss of the said ship or vessel by fire, enemies, or any other casualty, shall unavoidably happen, and the above bounden _____, heirs, executors or administrators, do and shall within _____ calendar months next after such loss pay and satisfy to the said _____, executors, administrators or assigns, a just and proportionable average on all goods, merchandizes and effects the said _____ carried out from _____, on board the said ship or vessel, and on all other goods, merchandizes and effects which _____ may require during the said voyage, and which shall not be unavoidably lost. Then, &c. Otherwise, &c. as in last form.

Condition of a Bottomry Bond. From —— to ——, and back.

(*For obligatory part, see ante page 32.*)

WHEREAS the good ship or vessel called the _____, of the burthen of _____ tons, or thereabouts, whereof _____ is master, is

now bound out and forthwith to depart on a voyage to _____, and thence to _____, to end her voyage. And whereas the owners of _____ part of the said ship have not paid and furnished their respective proportions of the charges of fitting out the said ship for the said intended voyage, and thereupon the said master is necessitated to take up money for supplying and fitting the said _____ parts of the said ship for her said intended voyage; to which said voyage and employment the major part of the owners of the said ship have consented and agreed to, &c. And whereas _____ has paid and lent unto the said master the sum of _____ pounds of lawful, &c. and is contented and hath agreed to stand to and bear the hazard and adventure thereof on the hull or body of the said ship during the said voyage, so as the same do not exceed _____ calendar months from _____ to be accounted. Now the condition &c. is such, That if the said ship or vessel shall and do accordingly with all convenient speed proceed and sail on her said voyage to _____, and return and come to _____, (*the dangers and casualties of the seas excepted.*) and also if the above bound _____, his heirs, executors and administrators, do and shall within _____ days next after the return and arrival of the said ship or vessel in _____ from her said intended voyage, or at the end and expiration of _____ calendar months, to be accounted as aforesaid, which of the said terms shall first and next happen, well and truly pay or cause to be paid to the above named _____, his executors, administrators or assigns, the sum of _____ pounds of good and lawful, &c. together with _____ of the like lawful money for every calendar month the said ship shall be out on the said voyage over and above _____ calendar months to the expiration of _____ calendar months to be accounted as aforesaid, and so in proportion for less than a month; or if in said voyage, and within the said _____ calendar months to be accounted as aforesaid, an utter loss of the said ship or vessel by fire, enemies, or any other casualty, shall unavoidably happen, to be sufficiently proved by the said _____, his heirs, executors or administrators; **THEN, &c.**

APPRENTICES INDENTURES

THIS INDENTURE, made &c. between A. B. of &c. and C. D. his son, of the one part, and E. F. master of the ship or vessel called the G. in the West India trade, of the burthen of _____ tons, or thereabouts, now lying in the harbour of Saint John, of the other part, Witnesseth, That the said C. D. hath, by and with the consent of the said A. B. his father, testified by his being a party to and signing and sealing these presents, and also of his own free and voluntary will, placed and bound himself apprentice unto the said E. F. to learn, attain, and acquire the art, skill,

and perfect knowledge of navigating, managing and working of a ship and vessel, and every thing thereunto belonging, which he, the said E. F., now followeth, and with him as an apprentice to abide and continue, as well when on shore as on board such ship or vessel he the said E. F. shall at any time be master or commander of, or any ways interested in, from the day of the date hereof until the said C. D. shall attain the full age of twenty-one years, he the said C. D. being now the age of _____ years, and from thence next ensuing, and fully to be complete and ended; and during all which term of years the said apprentice shall and will faithfully and diligently to the utmost of his power and skill serve his said master, his secrets keep, his lawful commands every where and in all things gladly do and obey. Hurt or damage to his said master he shall not do, or willingly suffer it to be done by others, but the same to the utmost of his power prevent, and shall immediately thereof give notice to his said master. Cards or any other games he shall not play, taverns or alehouses he shall not frequent: And also, that he the said apprentice shall not quit or absent himself from his said master or ship day or night without his consent, or embezzle, waste, clandestinely or otherwise dispose, deliver, lend or alienate any goods, wares, merchandizes, matters or things anyways belonging to his said master, passengers or ship, or any cargo thereof, without the special order and approbation of his said master, but shall and will in every respect demean and behave himself towards his said master, officers and passengers, as a good and faithful apprentice. And the said E. F. doth covenant, promise and agree, that he the said E. F. shall and will faithfully and to the best of his skill, experience and abilities, teach and instruct, or cause to be taught and instructed, his said apprentice in all and every the art, skill, and knowledge of navigating, managing, steering or directing of a ship or vessel in all seas, bays, rivers, channels, creeks, harbours and waters, and in all and every thing thereunto necessary and requisite; and shall and will find and provide unto and his said apprentice good and sufficient meat, drink, washing, and wearing apparel, both woollen and linen, and all other necessaries, during the said term: And for the true performance of all and every the covenants and agreements either of the said parties bindeth himself unto the other by these presents. In witness, &c.

Sealed and delivered in presence of	}	A. B. [L. S.]
		C. D. [L. S.]
		E. F. [L. S.]

(To be acknowledged before a Justice of the Peace.)

*An Indenture for the Sea of a Common Sailor to serve in such Ships
as the Master shall appoint.*

This Indenture Witnesseth, That A. son of B. of &c. doth bind himself apprentice unto C. of &c. after the manner of an apprentice to serve him the said C. and such other person or persons in the navigation of any ship or vessel as the said C. shall order and appoint, from the day of the date hereof, for the full term of — years, and fully to be complete and ended ; during all which said term the said apprentice shall and will faithfully serve the said C. and do and perform all such service and business; as well at sea on board any ships or vessels which shall belong or be employed in the service of the said C. and with and under such person or persons as he shall from time to time order appoint, or otherwise, as the occasions of the said C. shall require, and shall and will obey all the lawful commands of his said master, and such other person or persons with whom he shall from time to time order and appoint him to serve and go in such ship or vessel, and diligently and carefully demean and behave himself towards him and them. He shall not do, or willingly suffer to be done by others, any hurt, prejudice or damage to the goods, merchandizes or other affairs of his said master, or any other with whom he shall be appointed to serve as aforesaid : but the same to the utmost of his power shall binder and prevent, or him and them thereof forthwith give notice. He shall not absent himself from the said service by day or night unlawfully, but in all things as a good and faithful apprentice he shall demean and behave himself towards his said master, and such person or persons with whom he shall order him from time to time to serve as aforesaid during the said term. And the said master his said apprentice shall and will cause to be taught and instructed in the art or business of a sailor, as far as shall be necessary to the voyages wherein he shall be employed : And also shall and will find and provide unto and for his said apprentice meet and sufficient meat, drink, washing, and wearing apparel, both woollen and linen, and all other necessaries during the said term. And for the true performance, &c. In witness, &c. (*To conclude and be acknowledged as in the preceding case.*)

A Discharge of an Apprentice from his Indentures.

To all to whom these presents shall come, A. B. of &c. sends greeting. Whereas C. D. son of E. D. of &c. did by his indenture of apprenticeship, bearing date on or about the — day of —,

put himself apprentice unto the said A. B. for the term of seven years, as by the said indenture, reference being thereunto had, may more fully and at large appear. And whereas the said A. B. at the request of the said E. D. the father, and the said C. D. the apprentice, testified by their being parties to and sealing and delivering of these presents, hath discharged the said C. D. from his service; and the said indentures are delivered up by the said parties to be cancelled. Now therefore know ye, That the said A. B. hath remised, released, and for ever discharged, and by these presents doth, for himself, his executors and administrators, remise, release, and for ever discharge the said C. D. of and from the said indenture of apprenticeship, and all service and other matters and things in the said indentures contained, on his part to be performed, and of and from all actions and causes of actions, suits, specialties, covenants, agreements, clauses and demands whatsoever, for or concerning the said indenture of apprenticeship, or by reason of any other matter or thing whatsoever, from the beginning of the world to the day of the date hereof. In witness, &c. (*conclude as in p. 104.*)

o



AMERICAN CONSULATE.

For the following information the author is indebted to Thos. Leavitt, Esq., Consul of the United States of America, for the port of Saint John, N. B.

Goods without Invoice.

When no Invoice has been received of any goods, wares, or merchandise, imported into the United States and subject to *ad valorem* duty, the owner, importer, consignee or agent may make oath of the fact, and if in the collector's judgment circumstances render it expedient, such goods, wares or merchandise may be admitted to an entry, on an appraisement thereof; *provided*, the owner, importer, consignee or agent, do, previous to such entry, give bond to produce to the collector an invoice of the same within eight months from the time of entry, if imported from any place this side, and within eighteen months, if from any port or place beyond the Cape of Good Hope or Cape Horn, or from the Cape of Good Hope, and to pay any amount of duty to which it may appear, by such invoice, the said goods are subject, over and above the amount of duties estimated on the said appraisement.

Goods belonging to absent Persons.

No merchandise, subject to *ad valorem* duty, and belonging to a person or person residing in the United States, but who shall, at the time, be absent from the place where the same are intended to be entered, shall be admitted to entry, unless the importer, consignee or agent shall previously give bond, with sufficient surety, to produce *within four months*, to the collector of the port

where the said goods may be, the invoice of the same, duly verified by the oath of the owner, or one of the owners : which oath must be administered by a collector of the United States, if there be one, otherwise by some public officer duly authorised to administer oaths.

No merchandise, subject to *ad valorem* duty, and belonging to a person or persons *not residing at the time* in the United States, and who may have actually purchased the same, shall be admitted to entry, unless the invoice be verified by the oath of the owner, or one of the owners, certifying that the said merchandise was actually purchased for his account, or for account of himself and partners in the said purchase ; that the invoice annexed thereto contains a true and faithful account of the actual costs thereof and of all charges thereon, and that no discounts, bounties or drawbacks, are contained in the said invoice but such as have been actually allowed on the same ; this oath should be administered by a consul or commercial agent of the United States, or by some public officer duly authorised in the country where the said merchandise shall have been purchased, [see Form A. p. 111,] and the same duly certified by the said consul, agent or public officer ; in the latter case such certificate should be authenticated by a consul or commercial agent of the United States. [See Form B. p. 112.] But if there be no such consul or agent in the country from which the said goods shall have been imported, the authentication required may be executed by a consul of a nation at the time in amity with the United States, if there be such residing there ; if not, the said authentication may be made by two respectable merchants, if any such there be, residing in the place.

Goods belonging to non-resident citizens and foreigners.

No merchandise, subject to *ad valorem* duty, imported into the United States, and belonging to a person or persons not residing at the time in the United States, who may not have acquired the same in the ordinary mode of bargain and sale, or belonging to a person or persons who may be the manufacturer or manufacturers, in whole or in part, of the same, shall be admitted to entry, unless the invoice thereof be verified by the oath of the owner or owners, certifying that the invoice contains a true account of the said goods, at their fair market value at the time and place, when and where the same were procured or manufactured, as the case may be, and of all charges thereon ; and that the said invoice contains no discounts, bounties or drawbacks, but such as have been actually allowed ; which oath shall be administered as before directed.

Goods belonging to estates of deceased persons, &c.

In all cases where merchandise subject to an *ad valorem* duty, shall belong to the estates of deceased persons, or persons insolvent, who shall assign the same for benefit of creditors, the oaths required may be administered to the executor, administrator, or assignees.

Invoices not verified.

In all cases where merchandise, subject to an *ad valorem* duty, and belonging to persons not residing in the United States, shall not be accompanied by an invoice, verified by oath and authenticated as before prescribed; or, where it shall not be practicable to make such oath or verification, or there shall be an immaterial informality in the oath or authentication so required; or if the collector of the port, where such goods may be, shall have certified his opinion to the Secretary of the Treasury that no fraud was intended in the invoice of said goods, the Secretary of the Treasury is authorized, if he shall deem it expedient, to admit such goods to entry. But the owner, consignee, or agent must enter into bond with sufficient surety, previous to such entry, to produce the invoice, if practicable, duly verified, within the time prescribed in cases where no invoice has been received. And if the Secretary of the Treasury shall refuse an entry of such merchandise, the same shall be deemed suspected, and shall be liable to the same penalties as are provided in the case of fraudulent invoices.

Merchandise owned jointly.

In all cases where merchandise, subject to an *ad valorem* duty, shall belong partly to persons residing in the United States, and partly to persons residing out of the United States, the oath of an owner residing in the United States shall be sufficient to entitle the same to an entry. But in all instances where said merchandise shall have been manufactured, in whole or in part, by any one of the owners residing out of the United States, the same may not be admitted to entry, unless the invoice shall have been duly verified and authenticated by such manufacturer as before prescribed.

When the particulars of any merchandise are unknown.

In lieu of the entry before directed to be made, an entry thereof should be made according to the circumstances of the case; the party declaring, upon oath, all that he knows or believes concerning the said merchandise. This entry must be subscribed by the person making it, in his own proper name, if owner, otherwise, as agent or factor for the owner or consignee.

FORM A.

PORT OF SAINT JOHN,
NEW BRUNSWICK, } *To wit.*

I, of Saint John, in the Province of New Brunswick, Merchant, do solemnly, sincerely, and truly Swear, that I am doing business at Saint John, aforesaid, and that the true and lawful owner of certain Goods, Wares and MERCHANDIZE, as specified in the invoice subscribed by my proper signature, amounting to and here produced to THOMAS LEAVITT, *Consul of the United States of America* at the Port of Saint John, aforesaid, and were shipp'd at Saint John the day of on board the for in the United States of America, and the said invoice hereunto annexed contains a true and faithful account of the said Goods, Wares, or Merchandize, at their fair market value at the time and place when and where the same were shipped, and of all charges thereon, and that the said invoice contains no Discounts, Bounties, or Drawbacks, but such as have actually been allowed.

*Sworn before me, the
day of 184 }*

N. B. When this affidavit is made in a Port where there is only a Consular Agent, it is sworn before a Justice of the Peace, in presence of the Agent, whose Certificate is as in Form C. p. 112.

FORM B.

CONSULATE
of the United States of America,
SAINT JOHN, NEW BRUNSWICK.

I, THOMAS LEAVITT, Consul of the United States of America, for the Port of Saint John, in the Province of New Brunswick, do Certify and make known to whom these presents shall come, that the preceding affidavit made by [redacted] is deserving of full faith and credit, and that the deponent is of respectable character, qualified to verify this invoice.

[L. S.]

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and affixed the Seal of this Consulate, at the Port of Saint John, this day of one thousand eight hundred and and in the year of the Independence of the United States of America.

FORM C.

CONSULAR AGENT'S CERTIFICATE.

I, THOMAS B. WILSON, Agent of THOMAS LEAVITT, Consul of the United States of America, for the Port of Saint John, in the Province of New Brunswick, and for all other Ports that may be nearer to Saint John than the residence of any other Consul, *and by him authorised to authenticate at Saint Andrew's, verified Invoices for that place and its vicinity, do certify and make known to whom these presents shall come, that A. B. before whom the affidavit of C. D. hath been made, is a Justice of the Peace, duly authorised to administer oaths, that the deponent is of respectable character, qualified to verify this invoice, and that the oath was administered in the presence of*

[L. S.]

Given from under my Hand and Seal of the aforesaid Consulate, at Saint Andrew's, the day of and Year one thousand eight hundred and

LUMBER CONTRACTS.

(For a short Form, and legal construction of same, see ante p. 24.)

Memorandum of Agreement made this _____ day of _____, A. D. 184____, between A. B. of Newcastle, in the county of Northumberland, of the one part, lumberman, and C. D. of Chatham, in the same county, merchant, of the other part, witnesseth, as follows, viz:

Clause 1.

The said A. B. doth hereby promise and agree with the said C. D., That he, the said A. B., for the considerations mentioned in clauses 2 and 3, shall and will deliver, or cause to be delivered, unto the said C. D. at Newcastle aforesaid, in the Timber Pond of _____, therein situated, _____ thousand superficial feet of spruce logs, as hereinafter mentioned, viz:

_____ thousand superficial feet on or before the 1st day of May next.

_____ thousand superficial feet on or before the 1st day of July next.

_____ thousand superficial feet on or before the 1st day of August next, and the remaining

_____ thousand superficial feet on or before the 1st day of September next, at and after the rate of _____ per thousand superficial feet, and in case any part of the said logs shall be delivered at the place aforesaid, on or before the 1st day of November next, the same to be received and paid for at and after the rate of _____ per thousand superficial feet; one half the amount (due for such as are delivered on or before the first day of November next,) to be paid in cash, upon survey being made as hereinafter mentioned, and the remainder by an acceptance of the said A. B.'s order on the said C. D. at three months from date of such delivery (or completion of such survey, as the case may be.)

Clause 2.

The said C. D., in consideration of the premises and agreement on the part of A. B., named in clause 1, agrees to furnish the said

A. B., at the present date, with his acceptances of two orders of the said A. B., one to be drawn for _____ pounds, payable in three months from date, and the other for _____ pounds, at six months from date—these acceptances to form part or the whole, as the case may be, of the cash payment of such logs as may be delivered on or before the 1st day of November next. If no logs are delivered on or before the said first day of November next, then it is understood and agreed between the parties, that the said C. D. shall be entitled to interest upon such acceptances from the time they fall due, or if such acceptances are more than sufficient to satisfy the cash payments, due on such logs as may be delivered as last mentioned, then interest is to be allowed on the difference between the amount due for such cash payments, and the amount of such acceptances, and the balance of such acceptances, with the interest thereon, is to form a part of the cash payment, of such logs as may be delivered next year, at the time before mentioned.

Clause 3.

The said C. D. doth further promise and agree to and with the said A. B., That upon a full and complete delivery and survey of the said logs, as mentioned in clause 1, to be delivered next year, that he will pay the said A. B. for the same as follows, viz:—one-third of the value thereof, at the price aforesaid, in cash, after making the deduction aforesaid, mentioned in clause 2—one-third of the same by a promissory note payable in three months—and the remaining third by a promissory note at six months, (*both of said promissory notes to bear interest.*)

Clause 4.

And it is hereby agreed between both parties, that the logs hereby contracted for, shall be surveyed as follows, viz :—each party shall choose a sworn surveyor of lumber, who shall survey the same together, and should it happen that they cannot agree upon the survey, they are at liberty to choose a third surveyor, and then the determination of either two shall be final. [See the Provincial Act, regulating the survey of lumber, of 1837.]

Clause 5.

And it is further understood, that the expense of such survey shall be paid by the said C. D. and deducted from the cash payment named and expressed in clause 3.

Clause 6.

And it is further agreed between the parties, that in case the said C. D. shall make any other cash advances to the said A. B., interest shall be allowed thereupon, and the same shall be deducted from the amount of cash payment named in clause 3.

Clause 7.

And it is further agreed between the parties, that if the said C. D. shall make advances to the said A. B. of goods or provisions out of the store of the said C. D., the amount of the same shall be deducted, in equal proportions, from the two promissory notes to be given by the said C. D. as expressed in clause 3.

Clause 8.

And it is further agreed by and between the said parties, that in case of any disagreement between them arising out of this contract, the same shall be left to the decision of E. F., of ——, merchant, or in case of his death, absence, or refusal to act, then to the decision of G. H., of ——, gentleman, either of whose determinations shall be binding.

Clause 9.

And it is further agreed that, upon delivery of the logs, as mentioned in clause 1, at the timber pond therein mentioned, the same shall be then considered as a delivery to C. D., and shall vest in him the property thereof, and he shall be liable to the risk of safe keeping thereof; the quantity and value only to be determined by survey, as named in clause 4.

In witness whereof, both parties have hereunto put their hands,
this —— day of ——, A. D. 184

In the presence of

A shorter Form.

Memorandum of agreement between (*as in preceding form*).
The said A. B. agrees, in consideration of the promise and agreement of the said C. D. hereinafter expressed, to manufacture and deliver to and for the said C. D. at ——, one thousand tons of white pine timber, on or before the —— day of —— next. The said C. D., in consideration of the above, agrees, on his part, to pay for the said timber on delivery, at and after the rate of

— shillings per ton therefor, first deducting the supplies and payments hereinafter expressed, and he hereby agrees to pay the licence and stumpage fees therefor, to advance to the extent of — pounds to the said A. B. in supplies, at the following rates, when called for by the said A. B., at the store of the said C. D. in — aforesaid, viz. Pork at — per barrel,—Superfine Flour at — per barrel, &c., &c. And upon all cash advances made by the said C. D. he shall be allowed interest therefor. The timber to be surveyed by a sworn surveyor, to be chosen by the said C. D., and at the joint expence of the said A. B. & C. D. (*Other clauses can be added as in the preceding case.*)

In witness, &c., (as in last precedent.)

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MORTGAGE OF LAND.

A MORTGAGE may be defined to be *a debt by specialty*, secured by a pledge of lands, of which the legal ownership is vested in the creditor, but of which, in equity, the debtor and those claiming under him remain the actual owners, until debarred by judicial sentence or their own laches. It is a security founded on the common law, and perfected by a judicious and wise application of the principles of redemption of the civil law.

Of Mortgages of Freeholds.

Mortgages of freeholds, in modern practice, are either in fee or for such other interest as the mortgagor has in the lands, or by a demise for a long term of years, attended with a condition in the same deed, that if the principal and interest be paid within a given time, the lands shall be reconveyed; or the deeds of mortgage shall be void; or the term shall cease and determine. If the former be the wording of the proviso, and the money be actually paid within the limited time, a reconveyance will nevertheless be necessary; but if the latter be the form, then, on payment of the money within the period mentioned in the condition, the estate of the mortgagee will *ipso facto* determine. If the mortgage be by term of years, a covenant is usually inserted on the part of the mortgagor, that, after default made, he, or his heirs, will at his own costs do all lawful acts for confirming the term, or, if required, for conveying the reversion in fee to such persons as the mortgagee, his executors, administrators or assigns shall direct; for otherwise the mortgagee would on foreclosure obtain a chattel interest only, and not the fee. The benefit resulting from the mortgage being in the first instance for a term of years, and not in fee, is, that the security and debt descend together; but if the mortgage be in fee, the land will descend to the heir as a trustee for the executor, and the debt vest in the executor, which, in case of the infancy or absence of the heir, creates inconvenience, and in a recent case in Ireland, Lord Redesdale said, he remembered a case in which the Court restrained the executor of the mortgagee from proceeding at law to compel payment of the debt on the

bond, because the concurrence of the heir of the mortgagee in a reconveyance could not be obtained, and the money was ordered into Court until the executor could find the heir.

Of Assignments of Mortgage.

In equity, the mortgage debt is the principal, the land the accessory. An assignment of mortgage is, therefore, in equity, a transfer of its debt with its attendant securities; and, as the accessory always follows the principal, it results that when the debt is satisfied, the security is determined.

Of the relative Estates of Mortgagor and Mortgagee.

On the execution of the mortgage, the mortgagor becomes the equitable owner, the mortgagee the legal owner of the land; in which respective situations they remain until the land is redeemed or foreclosed. In the interim, the land and all its profits form a security for the debt. These general principles govern the decisions on this branch of the law of mortgage.

Of Foreclosure.

Equity having determined that the mortgaged debt shall be considered the principal, and the land a pledge, and, as a consequence, that the mortgagor, notwithstanding his breach of condition and the consequent forfeiture at law of his estate, shall be relieviable in equity, on payment of principal, interest, and costs, and the mortgagee in possession accountable for the rents and profits, it became, on the other hand, just that the mortgagee should not be subject to a perpetual account, nor converted into a perpetual bailiff, but that, after a fair and reasonable time given to the mortgagor to discharge the debt, he should lose his equity, or in other words, be foreclosed his right of redemption. On this principle rests the doctrine of foreclosure, and in the application of which the forbearance of equity, on behalf of the mortgagor, seems to be carried to its utmost limits, even so far as, in some instances, to work a serious detriment to the mortgagee; for equity is ready to receive the excuses of the mortgagor, as well for the purpose of giving him time to procure the money previously to the foreclosure, as also for the purpose of opening the foreclosure after many years' quiet possession by the mortgagee, under an absolute decree of foreclosure confirmed, signed and enrolled.

The usual course pursued on foreclosure is for the mortgagee to file his bill, praying that an account may be taken of principal and interest, and that the defendant may be decreed to pay the same with costs by a short day, to be appointed by the Court,

and in default thereof, he may be foreclosed his equity of redemption. On the answer coming in, the matter is referred to one of the Masters to take the account, and a decree is made for payment of principal, interest, and costs, within six calendar months after the Master's report of what is due on that account, or in default, the mortgagor shall stand foreclosed. After the account has been taken, the Master makes his report, and appoints a day for payment; the report is confirmed, and, on default made, the mortgagee may obtain an absolute order for foreclosing: the order is afterwards, signed and enrolled, and the foreclosure is complete.

[See the different Provincial enactments affecting the rights and interests of Mortgagors and Mortgagees, which will be found in the Province Laws, which are, or *should be*, in the possession of every Justice of the Peace in New Brunswick.]

FORM OF MORTGAGE OF LAND.

Know all men by these presents, that I, A. B., of _____, in the county of _____, Esquire, and _____ my wife, for and in consideration of the sum of _____ pounds of lawful money of New Brunswick, to me in hand well and truly paid, at or before the ensealing and delivering of these presents, by C. D., of _____ aforesaid, in the county aforesaid, Esquire, the receipt whereof I do hereby acknowledge, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said C. D., his heirs and assigns, all and singular the following described premises, to wit: (*here particularly describe the premises conveyed, if possible, by metes and boundaries.*) and also all dower, right and title of dower, interest, property claim, and demand whatsoever, of, in, to and out of the above described premises, with the appurtenances. To have and to hold the above bargained and sold premises, with the appurtenances, to the said C. D., his heirs and assigns, and to his and their only use, benefit and behoof for ever. And I., the said A. B., do, for myself, my, and each and every of my, heirs, executors, and administrators, covenant with the said C. D., his, and each and every of his, heirs and assigns, that I am seized of the premises as a good indefeasible estate of inheritance, in fee simple, free of and from all manner of incumbrances whatsoever, (rents, dues, conditions, reservations, and services, due and reserved to the Queen, only excepted) and that I have a good right, full power, and lawful authority to grant, bargain, and sell the same, in manner and form as above written. Provided always, and these presents are upon this condition, that if I, the said A. B., my certain attorney, heirs, executors, administrators or assigns,

shall well and truly pay or cause to be paid unto the above named C. D., his executors, administrators or assigns, the just and full sum of _____, with lawful interest thereon, on or before the _____ day of _____, which will be in the year of our Lord one thousand eight hundred and _____, (*or, on or before the _____ day of _____ next, as the case may be,*) according to the condition of my certain bond or obligation, bearing even date, (*or, according to the tenor of my certain promissory notes, as the case may be,*) then these presents, and every clause, matter and thing, shall cease, determine, and become utterly null and void, otherwise to remain in full force and virtue. In witness, &c. as ante p. 48.

[*To be acknowledged as the deed on p. 48.*

WILLS.

By the Act of Assembly, 1 Vic. cap. 9, which, after annulling the operation of several Acts of Parliament which have extended to, or hitherto have been considered in full force and acted upon in this Province, and after repealing several Provincial enactments, declares :

III. That it shall be lawful for every person to devise, bequeath, or dispose of, by his Will executed in manner hereinafter required, all real estate and all personal estate which he shall be entitled to, either at law or in equity at the time of his death, and which if not so devised, bequeathed or disposed of, would devolve upon his heir, child, or next of kin, or upon his executor or administrator ; and that the power hereby given shall extend to estates *pur autre vie*, whether there shall or shall not be any special occupant thereof, and whether the same shall be a corporeal or incorporeal hereditament ; and also to all contingent, executory or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instrument by which the same respectively were created, or under any disposition thereof by deed or will ; and also to all rights of entry for conditions broken and other rights of entry ; and also to such of the same estates, interests and rights respectively, and other real and personal estate as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his Will.

V. That no Will made by any person under the age of twenty-one years shall be valid.

VI. That no Will made by any married woman shall be valid except such a Will as might have been made by a married woman before the passing of this Act.

VII. That no Will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned, (that is to say,) it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction ; and such signature shall be made or acknowledged by the testator in the

presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the Will in the presence of the testator, but no form of attestation shall be necessary.

IX. That any Soldier being in actual military service, or any Mariner or Seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act.

XI. That every Will executed in manner hereinbefore required shall be valid without any other publication thereof.

XII. Will not to be void on account of incompetency of attesting witness.

XIII. Gifts to an attesting witness to be void.

XIV. Creditor attesting to be admitted as a witness.

XV. Executor to be admitted as a witness.

XVI. Will to be revoked by marriage.

XVII. No Will to be revoked by presumption.

XVIII. No Will to be revoked but by another Will or Codicil, or by a writing executed like a Will, or by destruction.

XIX. No alteration in a Will shall have any effect unless executed as a Will.

XX. No Will revoked to be revived otherwise than by re-execution of a Codicil to revive it.

XXI. A devise not to be rendered inoperative by any subsequent conveyance or act.

XXII. A Will shall be construed to speak from the death of the testator.

XXIV. A general devise of the testator's lands shall include leasehold as well as freehold lands.

XXV. A general gift shall include estates over which the testator has a general power of appointment.

XXVI. A devise without any words of limitation shall be construed to pass the fee simple.

XXVII. The words *die without issue, or die without leaving issue,* shall be construed to mean *die without issue living at the death.*

XXVIII. No devise to trustees or executors, except for a term, shall pass a chattel interest.

XXIX. Trustees under an unlimited devise, where the trust may endure beyond the life of a person beneficially entitled for life, to take the fee.

XXX. Devises of estates tail shall not lapse.

XXXI. Gifts to children or other issue, who leave issue living at the testator's death, shall not lapse.

XXXII. That the words and expressions hereinafter mentioned which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such con-

struction, be interpreted as follows: (that is to say,) the word "Will" shall extend to a testament and to a codicil, and to an appointment by Will or by writing in the nature of a Will in exercise of a power, and also to a disposition by Will, and testamentary devise of the custody and tuition of any child, by virtue of an Act of the Parliament of England, passed in the twelfth year of the reign of King Charles the Second, intituled "An Act for taking away the Court of Wards and Liveries and tenures *in capite*, and by Knight's service and purveyance, and for settling a Revenue upon His Majesty in lieu thereof," and to any other testamentary disposition; and the words "real estate" shall extend to messuages, lands, rents and hereditaments, whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any estate, right or interest (other than a chattel interest) therein; and the words "personal estate," shall extend to leasehold estates and other chattels real, and also to monies, shares of government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever, which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

XXXIII. The Act not to extend to Wills made before 1839, nor to estates *par autre vie* of persons who die before 1839.

TECHNICAL WORDS NOT REQUIRED IN A WILL.

The words of a Will are the means to collect the intention; and, as a testator is not supposed to be acquainted with legal language, the law neither requires nor expects *technical* words in a Will.

If it is the intention,

Land will pass under the word "effects;" or "property;" or the words "personal estate;"

The word *legacy* will apply to *real* property;

A *fee-simple* will pass by a devise "for ever;" by a devise of "all I am worth;" by a devise of "my property;" by a devise in the words: "A. B. I make my sole heir;" by a devise "to A., B. and C., and the survivors and survivor of them, and the executors and administrators of such survivor;" by a devise in the words: "I devise all my lands, tenements, and hereditaments, to A. Item, I devise all my goods and chattels, money and debts, and whatever else I have not before disposed of, to A."

These examples are ample to prove that *technical* words are not required in a Will. (*Ram on Wills.*)

SHORT FORM OF WILL.

This is the last Will and Testament of JOHN DOE, of the Parish of Norton, in the County of King's, Husbandman.

Imprimis. I do hereby revoke and annul all former wills and testaments, at anytime heretofore by me made or executed. And I do hereby nominate and appoint my friends A. B., C. D., and E. F., or the survivors or survivor of them, to be my executors or executor in this behalf.

Item. My farm of land in Norton, with the appurtenances, I do hereby devise unto Mary my wife, for her natural life, and after her death, unto my eldest son John, his heirs and assigns forever.

Item. The lot of land, No. — Prince William Street, in the City of Saint John, and which I now hold under lease from ——, and which is sub-let by me to ——, and in his occupation,—I do hereby bequeath all my interest therein to my daughter Ann.

Item. All my bank stock, farm stock, and all my goods and chattels, I do hereby bequeath unto my said wife Mary, the same to be at her own power and disposal, subject however to the payment of any debts which may be due by me at the time of my decease, and it is my will and pleasure that my executors shall discharge the same, from the proceeds of sale arising therefrom.

In witness whereof, I have hereunto set my hand, this — day of —, in the year of our Lord, one thousand eight hundred and —.

Signed and published in our presence,
by the above named John Doe, and
when we were both personally pre-
sent at the same time when such sig-
nature and publication was made,

G. H.
I. J.

LANDLORD & TENANT.

LAW SUMMARY.

By the Provincial Act, 50 Geo. 3, cap. 21, it is required, (Sec. 17,) That in case any tenant or tenants shall give notice of his, her, or their intention to quit any premises by him, her, or them holden, at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof, at the time in such notice contained, that then the said tenant or tenants, his, her, or their executors or administrators, shall from thenceforward pay to the landlord or landlords, lessor or lessors, double the rent, or sum, which he, she, or they should otherwise have paid: to be levied, sued for, and recovered at the same times, and in the same manner, as the single rent or sum, before the giving such notice could be levied, sued for, or recovered, and such double rent or sum shall continue to be paid, during all the times such tenant or tenants shall continue in possession as aforesaid. *Provided always*, that when any houses, lands, tenements or hereditaments shall be let by the year, three months' notice—when by the month, one month's notice—and when by the week, one week's notice—shall be given, either to the tenant in possession to quit, or by the tenant to the landlord, of an intention to quit as aforesaid.

It is not necessary that the notice, if in writing, be personally served upon the tenant: it is sufficient if it be left at his house with a servant, from which it will be presumed that it reached the tenant. In order, however, to raise this presumption in the absence of proof that it reached the tenant, it must be shown to have been delivered into the hands of his servant, and not merely that it was left at his house.

But if it be delivered to the servant, the service will be *absolutely* good, although the tenant be not informed of it within half a year of its expiration. The service should invariably be upon the tenant of the party serving the notice; and where the service was upon a relation of the under-tenant on the premises, Lord Ellenborough ruled that it was insufficient, though the notice was addressed to the original lessee.

Where two or more tenants occupy under a joint demise, service of a written notice to quit upon one of them is sufficient. And where one tenant lived upon the premises, and the other lived elsewhere, service upon the one upon the premises was held to be *prima facie* evidence that the notice reached the other.

Where a notice is attested by a subscribing witness, that witness must be produced, or his absence must be accounted for:—proof that it was served on the tenant, and that he read it, and made no objection to it, is not sufficient.

After the landlord has given notice, and the time has expired, he may do some act which will amount to a waiver of the same.

In the first place, he may receive rent after the expiration of the notice; which amounts to a recognition of a subsisting tenancy, and operates as a waiver of the notice. It is a question for the jury whether the money be paid *as rent*; and if they find in the affirmative, then the Court will consider the notice as waved, and the tenancy re-established.

But where the tenant had been in the habit of paying his rent to the landlord's banker, and a notice having been served upon him, he, after its expiration, paid another quarter's rent into the banker's, who knew nothing of the notice; Lord Ellenborough, C. J., held, *in the absence of any proof that the rent so paid had come to the lessor's hands*, that the notice was not thereby waved.

A distress taken for rent, accruing due after the expiration of the notice, is a waiver of the notice.

A receipt for rent up to a particular day, stating it to be a year's rent, is *prima facie* evidence of the commencement of the tenancy on that day.

Where several persons are jointly interested, a notice to quit, if given by themselves in writing, must be signed by all.

Thus where a lease for twenty-one years contained a proviso, that in case either landlord or tenant, or their respective heirs and executors, wished to determine it at the end of the first fourteen years, and should give six months' notice in writing *under his or their respective hands*, the term should cease; it was held that a notice to quit, signed by two only of the three executors of the original lessor, to whom the freehold was devised as joint tenants, expressing the notice to be given on behalf of themselves and the third executor, was bad, notwithstanding a subsequent recognition of it by the third executor.

But though, where the notice is given, or signed by some of several who *ought* to join, a subsequent recognition of the notice by the rest will not make it good by relation: it is otherwise where the notice, purporting to be given on the part of all, is given by an agent, under an authority from some only, at the time he gives the notice. For it is, in such a case, sufficient, if his *authority* be subsequently recognised; and, therefore, where such notice was

given by an agent under a written authority, which authority, at the time of the service of the notice, had been signed only by some of several joint tenants, but afterwards was signed by all the others:—it was held that the subsequent recognition was sufficient to give validity to the authority from the beginning, and that the notice to quit was therefore sufficient.

In a case in which A. demised premises to B. for one year certain, and it was agreed that, after the expiration of that year the tenancy should expire, on three months' notice being given by A.; and B., having entered, took the receipts for the rent from A., first in his own name only, and afterwards in the names of himself and two others, who were his partners, and after three years' possession, he received a notice to quit from A. alone: it was held that A. might recover on his own demise in an action of ejectment; the notice to quit from A. alone being sufficient to determine the tenancy. (*Comyn's Landlord & Tenant.*)

DISTRESS FOR RENT.

By the 4th sec. of the 50. Geo. 3. cap. 21, Prov. Act,—“When any goods and chattels shall be distrained for any rent reserved and due upon any demise, lease or contract whatsoever, and the tenant or owner of the goods so distrained, shall not within five days next after such distress taken, and notice thereof, (with the cause of such taking,) left at the dwelling-house or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the sheriff, according to law, that then and in such case after such distress and notice as aforesaid, and expiration of the said five days, the person distraining, shall and may with the sheriff, or under-sheriff of the county, or with a constable of the parish, city or place where such distress shall be taken, (who are hereby required to be aiding and assisting therein,) cause the goods and chattels so distrained, to be appraised by two sworn appraisers, (whom such sheriff, under-sheriff or constable are hereby empowered to swear,) to appraise the same truly, according to the best of their understandings; and, after such appraisement, shall and may lawfully sell the goods and chattels so distrained for the best price that can be gotten for the same, towards satisfaction for the rent, for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement and sale, leaving the overplus, if any, in the hands of the said sheriff, under-sheriff, or constable.”

Notice to quit by the landlord to his tenant from year to year.

Mr. C. D.,

I hereby give you notice to quit and deliver up on the — day of — next, the possession of the messuage or dwelling-house, [or of the farm lands and premises, or of the rooms and apartments,] with the appurtenances, which you now hold of me, situate at, &c. - Dated the — day of —, 18—.

To Mr. C. D.

Yours, &c. A. B.

The like where the commencement of the tenancy is uncertain.

Mr. C. D.,

I hereby give you notice to quit and deliver up on the — day of — next, the possession of the messuage or dwelling-house, [or rooms and apartments, or farm lands and premises,] with the appurtenances, which you now hold of me, situate in the parish of —, in the county of —, provided your tenancy originally commenced at that time of the year; or otherwise, that you quit and deliver up the possession of the said messuage, &c., at the end of the year of your tenancy which shall expire next after the end of one half-year from the time of your being served with this notice. Dated the — day of —, 18—.

To Mr. C. D.

Yours, &c. A. B.

Notice by an agent of the landlord

Mr. C. D.,

I do hereby as the agent for and on the behalf of your landlord, Mr. A. B. of —, give you notice to quit and deliver up possession of the premises situate at, &c., now in your occupation, on the expiration of the current year of your tenancy. Dated the — day of —, 18—.

Yours, &c. A. B.

Notice to quit lodgings.

Sir,—I hereby give you notice to quit and deliver up on or before — next, the rooms and apartments and other tenements which you now hold of me in this house [*as the case may be.*]

Witness my hand, this — day of —, in the year 18—.
To C. D. A. B.

Notice to the tenant either to quit the premises, or pay double value.

Sir,—I hereby give you notice to quit and yield up on the — day of — next, possession of the messuage, lands, tenements, and hereditaments, which you now hold of me, situate in the pa-

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rise of _____ and county of _____, in failure whereof I shall require and insist upon double the value of the said premises according to the act in such case made and provided. Dated this _____ day of _____, 18—.

To C. D.

Yours, &c.
A. B.

Notice to quit by the tenant.

Sir,—I hereby give you notice that on the _____ day of _____ I shall quit possession of the messuage or tenement and premises which I now hold of you, situate at _____, in the parish of _____, in the county of _____. Dated this _____ day of _____, 18—.

To A. B.

Yours, &c. C. D.

Notice by the tenant to quit lodgings.

Sir,—This is to give you notice that on the _____ day of _____ next I shall quit and deliver up possession of the rooms and apartments and other tenements which I now hold of you in this house.

Witness my hand this _____ day of _____, 18—.

To A. B.

C. D.

Notice to tenant to pay rent.

Sir,—This is to warn you that unless you pay or cause to be paid unto me, on or before the _____ day of _____ next, the sum of _____, being _____ a year's rent due on the _____ day of _____, for the messuage or tenement and premises which you now hold of me, at the yearly rent of _____, situated, &c., I shall claim and insist upon such forfeiture thereof as I may be by law entitled to. Witness my hand, &c.

To C. D.

A. B.

Warrant of distress.

To Mr. A. my bailiff,—Distain the goods and chattels of C. D. (the tenant,) in the house he now dwells in (or on the premises in his possession,) situate in _____, in the county of _____, for _____ pounds, being one year's rent, due to me for the same on the 1st day of May last; and for your so doing this shall be your sufficient warrant and authority. Dated the _____ day of _____, 18—.

A. B.

Notice of distress to tenant.

Mr. C. D.—Take notice, that I have this day distrained (or that as bailiff to A. B. your landlord, I have this day distrained) on

the premises occupied by you, the several goods and chattels specified in the annexed inventory, for the sum of — pounds, being one year's rent, due to me (or, to the said A. B.) on the first day of May last, for the said premises; and that unless you pay the said rent, with the charges for distraining for the same, within five days from the date thereof, the said goods and chattels will be appraised and sold according to law. Given under my hand, the — day of —, in the year of our Lord 18—. W. T.

(Annex an inventory of goods distrained, and serve copies of same and of this notice on tenant immediately after distress is made.)

Appraiser's oath, &c.

" You, and each of you, shall well and truly appraise the goods and chattels mentioned in this inventory (holding it in his hand,) according to the best of your judgment. So help you God."

Then endorse on the inventory the following memorandum:—
"Memorandum: That on the _____ day of _____, in the year
of our Lord _____, A. B. of, &c., and C. D. of, &c., two sworn
appraisers, were duly sworn upon the Holy Evangelists, by me J.
K. of, &c., constable, well and truly to appraise the goods and
chattels mentioned in this inventory, according to the best of their
judgment. "As witness my hand.

"Present at the time of swearing
the said A. B. and C. D. as above,
and witness thereto.

"L. M.
"O. P."

After the appraisers have valued the goods, continue the endorsement on the inventory as follows :—

"We, the above named A. B. and C. D., being sworn upon the Holy Evangelists, by J. K. the constable above named, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best of our judgment; and, having viewed the said goods and chattels, do appraise the same at the sum of _____ pounds. As witness our hands, the _____ day of _____, in the year of our Lord, 18—.

"A. B. }
"C. D. } Sworn Appraisers."

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